

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,

Plaintiff,

v.

CITY OF WILMINGTON,

Defendant.

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C.A. NO. 06-351 JJF

JURY TRIAL DEMANDED

**APPENDIX TO DEFENDANT'S OPENING BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT**

VOL. I

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800 N. French Street, 9th Floor
Wilmington, DE 19801
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Attorney for Defendant City of Wilmington

Dated: November 14, 2007

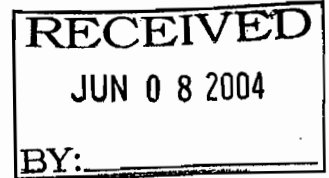
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**OFFICE OF PUBLIC SAFETY
DEPARTMENT OF POLICE
WILMINGTON, DELAWARE**

DEPARTMENTAL INFORMATION

TO: Elinza D. Cain
City Personnel

FROM: Inspector James H. Wright *JAW*
Inspector of Uniform Operations

DATE: 08 June 04

RE: Sexual Harassment Complaint

Per City of Wilmington, Personnel Policy, under section 101.1, I am forwarding you this date, a complaint received by our department regarding a sexual harassment complaint.

Said complaint was received on June 2, 2004 from Sergeant Deborah Donahue regarding Officer Fray Lynch. Said complaint alleges that Michael Brown, a City employee made offensive remarks, which were sexual in nature to Officer Lynch.

This complaint was hand delivered to you this date, for follow-up/investigation per city policy.

cc: Chief Michael Szczerba
Inspector Martin Donohue
Officer of Professional Standards



CITY OF WILMINGTON, DELAWARE PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

PURPOSE:

To provide a work environment in which all individuals are treated with respect and dignity. The City of Wilmington expects that all internal and external relationships among persons in the workplace will be free of harassment.

POLICY:

It is the policy of the City of Wilmington to promote a productive work environment. Verbal or physical conduct by any employee that harasses, disrupts, or interferes with another's work performance will not be tolerated. Creating an intimidating, offensive, or hostile environment is prohibited.

The City of Wilmington reserves the right to conduct searches and inspections if a violation of this policy is suspected and if there are reasonable grounds to suspect that the search will find evidence that the employee is guilty of work-related misconduct.

PROCEDURES:

Definitions of Harassment

1. Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; (iii) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A-2

Supersedes	Approved	Effective Date	Approval(s): Administrative Board	Page 1 of 6
10/03/00	11/06/02	11/06/02	<i>Monica Gonzales-Allegre</i>	



CITY OF WILMINGTON, DELAWARE

PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to, unwanted sexual advances or requests for sexual favors; sexual jokes and innuendos; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, catcalls, or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal, or visual conduct of a sexual nature. This includes harassment involving an individual's sexual orientation.

2. Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, age, national origin, disability, or another characteristic protected by law or that of his/her relatives, friends, or associates, and that: (i) has the purpose or effect of creating intimidating, hostile, or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to, epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes and display.
3. Harassment in this policy is also defined as verbal or physical conduct that disrupts or interferes another's work performance or creating an intimidating, offensive, or hostile environment.
4. Work Place Violence is a form of harassment. Unacceptable behavior under this policy is that which causes an individual to reasonably fear for his personal safety or that of others. It includes, but is not limited to, oral or written statements, gestures, expressions, and actions that communicate a direct or indirect threat to an individual's physical or psychological well-being.

A-3

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CITY OF WILMINGTON, DELAWARE PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

Individuals and Conduct Covered

These policies apply to all applicants and employees and prohibit harassment and retaliation whether engaged in by fellow employees by a supervisor, manager, or by someone not directly connected to the City of Wilmington.

Conduct prohibited by these policies is unacceptable in the workplace or in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Retaliation is prohibited. The City of Wilmington prohibits retaliation against any individual who reports harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and like harassment or discrimination itself will be subject to disciplinary action.

Reporting an Incident of Harassment, Discrimination, or Retaliation

The Administration strongly urges the reporting of all incidents of harassment regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to this policy or who have concerns about such matters should file their complaints with the City's Employee Relations Advisor/EEO Compliance Officer, their immediate supervisor, their department head, the Director of Personnel, or any member of the Personnel Department. Individuals should **not** feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of one of the other designated representatives identified above.

In the event of imminent threat or danger, an employee should proceed as follows: (a) retreat immediately to safety, (b) contact 911, and (c) contact the department supervisor, director, and the Director or Deputy Director of Personnel as soon as possible.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome or requesting that it be discontinued.

A-3(a)

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CITY OF WILMINGTON, DELAWARE

PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

Early reporting and intervention have proven to be the most effective method of resolving actual and perceived incidents of harassment. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns so that rapid and constructive action can be taken is encouraged.

The Investigation

If the supervisor or department head receives the report, the Personnel Department should be immediately notified through either the Employee Relations Advisor, the Deputy, or Director of Personnel. Any Personnel Department staff receiving a harassment report is to notify the Employee Relations Advisor. The Law Department will be notified of all reports and filing of harassment complaints and kept informed throughout the investigative process until resolution.

All department heads, managers, and supervisors are responsible for insuring that this policy is implemented and communicated to their employees. They are also responsible for documenting the incident as appropriate. If there are reasonable grounds to suspect that a search is necessary and will produce evidence that the employee is guilty of work-related conduct under this policy, the supervisor must contact the Personnel Department prior to conducting any search. Such searches will be reasonably related to the objective of the search and not excessively intrusive in light of the nature of the misconduct. This includes, but is not limited to, any employee's or volunteer's personal effects, such as lunch containers, briefcases, purses, backpacks, company-issued computers, e-mail boxes, lockers, desks, filing cabinets, and personal or City of Wilmington property located on City of Wilmington premises.

Any reported allegations of harassment will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

A-3(b)

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CITY OF WILMINGTON, DELAWARE

PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

If it is determined during the course of the investigation that the complaint or information provided was false and/or malicious, the individual who provided such information may be subject to disciplinary action up to and including termination.

Responsive Action

Misconduct constituting harassment will be dealt with appropriately. Responsive action may include, training, retraining, referral to counseling, and/or disciplinary action up to and including termination.

Individuals who have questions or concerns about these policies should talk with Employee Relations Advisor/EEO Compliance Officer.

Finally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions in order to avoid allegations of harassment. The law and the policies of City of Wilmington prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, privileges, and perquisites of employment. The prohibitions against harassment and retaliation are intended to complement and further these policies, not to form the basis of an exception to them.

A-3(c)

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CITY OF WILMINGTON, DELAWARE PERSONNEL POLICY MANUAL

POLICY 101.1 Harassment-Free Work Environment

HARASSMENT-FREE WORK ENVIRONMENT INCIDENT REPORT

Please fill out this report and submit it to your immediate supervisor or designated personnel outlined in the policy after experiencing or witnessing an incident of harassment. All reports will be held in strict confidence, except as required by law.

Your Name: _____ Date of Incident: _____

Job Title: _____

Department: _____

Name(s) of the alleged perpetrator(s), if known: _____

Describe in detail what happened: _____

List the names of any witnesses: _____

Your Signature: _____ Date: _____

(This form must be forwarded to the Personnel Department)

A-3(d)

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OFFICE OF PUBLIC SAFETY

DEPARTMENT OF POLICE

WILMINGTON, DELAWARE

DEPARTMENTAL INFORMATION

TO: Michael J. Szczerba
Chief of Police

FROM: Patrolwoman Fray M. Lynch
Patrol Division / "F" Platoon

DATE: 2 June 2, 2004

RE: Harassment Complaint

Sir,

This officer is currently assigned to the Weed and Seed area of "F" platoon. As part of the assignment, this officer has to make contact with the community. I and my partner (Curry) frequently stop in the William Hicks Anderson Community Center to make contact with Mike Brown. On one of the occasions, Mike Brown had told these officers during small talk that he was going to Miami for the weekend. It was brought up that this officer was also going to Miami for the Memorial Day weekend.

This officer made contact with Mike Brown after the above listed community contact. On this day, I was working by herself due to Cpl. Curry being on vacation. As soon as I entered the lobby, I was approached by Mike Brown. Mike Brown greeted me with a hug and then asked me into his office. I did so and had a seat at the round table. Mike Brown began engaging in small talk and eventually asking me about Miami. Mike Brown asked me if he could go to Miami with me. I responded "no." Mike Brown asked why not. I replied because it was a girl's trip. Mike Brown then asked to meet my girlfriend that was going on the trip with me. I told Mike Brown "no." Mike Brown wanted to know why not. I advised him because my girlfriend does not like married men and you are married. Mike Brown replied that no one will have to know. There was a long awkward period of silence between the two of us. Mike Brown then broke the silence by reiterating that I was not going to "hook" him up with my girlfriend. I responded "no." Mike Brown then asked what was up with me. I shook my head as if to say nothing. Mike Brown then asked what kind of bathing suit I would be wearing while in Miami. I stated a regular bathing suit. Mike Brown said in question form, "a thong?" I responded with emphasis, "No, a regular bathing suit. I was looking at Mike Brown with a dumbfounded look on my face; confused as

to why he was asking these questions

I stood up from the chair in an attempt to leave and Mike Brown told me that he still needed to talk to me. At this point, Gene (an employee at the community center) came to the doorway of Mike Brown's office and asked Mike Brown for keys. Mike Brown told Gene not to interrupt him while he was talking to this fine police officer. Gene began joking with Mike Brown telling him that he would interrupt whenever. The two began joking amongst each other; Gene saying that he would kick Mike Brown's ass. Mike Brown stated not with this officer sitting right here. Mike gave Gene the keys and Gene left. Mike began talking about the issues that had taken place with the Spring Break basketball tournament. Gene returned a few moments later to ask another question. The two (Gene and Mike) began verbally harassing one another in a joking matter. Gene cut off the lights and told Mike that he was going to come in the room and beat Mike's ass in the dark (jokingly.) Mike stated that if Gene came into the room with the lady cop here, she can do both of us. Gene's demeanor changed after Mike made that comment. He stopped joking and became serious. He turned the lights back on, shook his head and let out a sigh and said, "That wasn't right." Gene walked out and I got up to leave also. Mike asked me where I was going? I advised that I needed to handle some other things in the district and left.

It should be noted that I informed my partner (Curry) of what took place the day before when he was on vacation. I also advised Sgt. Donohue of the incident while away on a Weed and Seed conference in Buffalo, NY. Mike Brown has made several comments to me making suggestions that he wanted to get to know this officer on a personal level. Mike Brown has told me that the pants being worn while on duty were fitting rather nicely or those pants look good on you; you can see everything. Some of the comments made have been compliments however the majority of them have a sexual overtone that makes me feel uncomfortable to be around Mike Brown by myself. Mike Brown only makes these comments when I am by myself and not in the company of anyone else; other than that one incident with Gene. These comments are not always made while at the Hicks Community Center but also if I see Mike while in the course of the day performing my daily duties. This kind of harassment started a few months after I was transferred to the Weed and Seed unit. I have been humiliated and belittled by the comments made by Mike Brown.

Respectfully Submitted,
Ptlw. Fray M. Lynch

Lt. M. Lat 6/4/04

Chief Michael J. Byrd 6-7-04



**CITY OF WILMINGTON
DEPARTMENT OF PERSONNEL**

Administrative Division Wilmington, Delaware 19801

CONFIDENTIAL MEMORANDUM

TO: Romain Alexander
Director, Department of Parks & Recreation

FROM: Monica Gonzalez-Gillespie *MGG*
Director, Department of Personnel

DATE: December 7, 2004

RE: **Conclusion of Harassment Complaint II
Michael Brown**

Please find the conclusions and recommendations from the investigation conducted on the Harassment complaint against Michael Brown, Executive Director of WHACC, by Fray Lynch, Police Officer.

Also attached are copies of the resulting communications to each of the parties listed above. Please forward a copy of the Disciplinary Action.

If you have any questions, please contact me.

cc: William Montgomery, Administrative Assistant to the Mayor
✓ Alex Mili, Assistant City Solicitor
Elinza Cain, Employee Relations Advisor

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PRIVILEGED AND CONFIDENTIAL

Complaint: Harassment
By: Fray Lynch, Police Officer, Wilmington Police Department
Against: Michael Brown, WHAAC, Department of Parks & Recreation

Background:

1. Officer Lynch is assigned to the Weed N' Seed program (hereafter 'the program'), which designates the police officer's deployment to a geographical location that includes the William Hicks Anderson Community Center (hereafter "the center"). Michael Brown is the Executive Director of the center.
2. As part of the program, police officers regularly visit the center. Upon receiving the complaint, Officer Lynch was asked to continue with the program, but to avoid visiting the center.
3. Mr. Brown had complained that the police officers assigned to this program did not visit the center as often as intended by the program.

Findings:

1. When asked about the specifics of the incident cited in Lynch's complaint, Brown stated that he had a conversation with the officer about her going away to an island or such. He denied saying anything ever about her pants that day or any other day.
2. Brown did admit asking Lynch whom she was going with her on her vacation, to which Lynch replied a girlfriend from Philadelphia. Brown then admitted to asking the officer to "hook a brother up," referring to Lynch's female friend. Brown described her reply, as "We don't do married men." His response was "Not you, your friend from Philadelphia."
3. Brown admitted asking Lynch to bring pictures of her vacation. He denies asking about a bathing suit.
4. Brown states that she did not seem upset when she left that day.
5. Inspector Wright verified that Mr. Brown has complained that police officers assigned to the Weed N' Seed program were not visiting the center as Mr. Brown wanted. The Inspector denied having any conversations with Mr. Brown that included the comment "whitey is out to get you and me", regarding Officer Lynch's alleged discussion with Mr. Brown.
6. When asked if he hugged females when greeting them, Brown stated that he shakes hands and then pulls the person towards him shoulder to opposite shoulder.
7. Gene Brown, who Michael Brown supervises, was not able to corroborate Lynch's version of the incident.

Lynch Complaint
December 3, 2004
Page 2

8. Brown did have to correct an answer when asked if he knew Lynch prior to her being assigned to the Weed N' Seed program; first denying, then acknowledging knowing her.

Conclusion:

There was not enough evidence to substantiate all of the allegations made by the complainant. Michael Brown did admit to certain comments that were sexually suggestive and deemed offensive to Officer Lynch. He did not admit to all of the comments that Lynch described in her complaint.

This is the second documented incident in which female employees found comments made by Brown offensive. In neither of these incidents could all of the allegations be proven or demonstrated; however, these complaints do raise concern and the City needs to ensure appropriate actions are taken. It does seem Brown exhibits poor judgment at times when conducting business with female employees.

After the last incident, Brown was directed to attend the Harassment-Free Work Environment training again within 60 days of the conclusion of the investigation. He did not attend until November of 2004, more than two years after he was instructed to do so. Harassment complaints are serious and should be taken as such, and more so if the complaint is against a person in a management position. The following recommendations should be implemented.

Recommendations

1. Administer a Written Disciplinary Action to Michael Brown for violating the City's Harassment-Free Work Environment Policy & Procedure by using sexually suggestive language with another female employee. This inappropriate behavior is made worse by the fact that it was exhibited by Mr. Brown while employed in a position of authority. This action should direct Mr. Brown to refrain from this behavior.
2. Instruct Mr. Brown to use the Police Department chain of command if he needs to discuss an issue with Officer Lynch.
3. Instruct Mr. Brown to have a higher-ranking police officer or official of the City present when communicating with Officer Lynch.
4. Direct Mr. Brown to attend the Harassment-Free Work Environment training and reaffirm his receipt of the Code of Ethics policy statement and associated code provision through signature.



**CITY OF WILMINGTON
DEPARTMENT OF PERSONNEL**

Administrative Division Wilmington, Delaware 19801

CONFIDENTIAL MEMORANDUM

TO: Michael Brown, Executive Director, William Hicks Anderson Community Center
Department of Parks & Recreation

FROM: Monica Gonzalez-Gillespie, ^{MB} Director of Personnel
Department of Personnel

DATE: December 7, 2004

RE: Harassment Complaint Filed By Fray Lynch

It is the policy of the City of Wilmington to promote a productive work environment, where all relationships among persons in the workplace will be free of any type of harassment.

Officer Lynch has complained that you used sexually explicit language on several occasions and was specifically offended during an interchange in your office earlier this year. During our interview, you admitted asking Officer Lynch to "hook a brother up" referring to a female friend of hers from Philadelphia. The investigation did not reveal sufficient evidence to substantiate other sexually suggestive comments that were included in the complaint by Officer Lynch.

The comment that you did make, however, was inappropriate and not acceptable under the City's Harassment-Free Work Environment Policy. As a result, recommendations have been forwarded to your Department Head, who will be contacting you shortly to review.

Harassment complaints are serious and should be taken as such especially if the complaint is against person in a management position. Please find attached copies of the Harassment-Free Workplace Environment Policy, the Code of Ethical Conduct Policy Statement, and the Wilmington City Code Division 6 - City Employees' and Elected and Appointed Officials Code of Conduct, which details the types of behavior that are unacceptable in the City of Wilmington workplace. All City employees are required to adhere to these policies and code provisions, specifically refrain from using any language or behavior that may be offensive or appear improper to other employees. Also be advised that any type of retaliation is illegal and unacceptable.

If you should have any questions, please contact me at 576-2460.

MGG
Attachments (3)

cc: Romain Alexander, Director of Parks & Recreation
✓ Alex Mili, Assistant City Solicitor
Elinza Cain, Employee Relations Advisor
Personnel File

A-9



**CITY OF WILMINGTON
DEPARTMENT OF PERSONNEL**

Administrative Division Wilmington, Delaware 19801

CONFIDENTIAL MEMORANDUM

TO: Fray Lynch, Police Officer, Police Department

FROM: Monica Gonzalez-Gillespie, ^{MBG}Director of Personnel, Personnel Department

DATE: December 7, 2004

RE: Harassment Complaint Filed Against Michael Brown

Thank you for your patience regarding the response to your complaint of harassment against Michael Brown, Executive Director of the William Hicks Anderson Community Center.

It is the policy of the City of Wilmington to promote a productive work environment, where all relationships among persons in the workplace will be free of any type of harassment.

The investigation did not reveal sufficient evidence to substantiate all of the allegations in your complaint of harassment. However, the City was able to substantiate that Mr. Brown made a comment to you, which was sexually suggestive and against City policy. Appropriate actions will be taken as it relates to this issue with Mr. Brown. In addition, Mr. Brown has been instructed to work through the Police Department chain of command if he has an issue to discuss with you directly. At no point, is he to meet with you alone without having a higher-ranking police officer or official of the City present.

It is my understanding that you have continued your assignment to the Weed N' Seed Program with the exclusion of visiting the William Hicks Anderson Community Center. The Chief of Police and I have discussed your continuance of this deployment until the end of the calendar year, when Mr. Brown will no longer be employed in the position of Executive Director for the Center. At this time, it is expected you will resume visiting the Center as part of the Program.

Again, I apologize for the delay in responding and hope this brings resolution to your complaint. If you should have any questions, please contact me at 576-2460.

cc: Michel Szczerba, Chief of Police
Romain Alexander, Director of Parks & Recreation
✓ Alex Mili, Assistant City Solicitor
Elinza Cain, Employee Relations Advisor
Personnel File

A-10

MAR 11 2005

BIGGS AND BATTAGLIA

ATTORNEYS AT LAW

921 NORTH ORANGE STREET

P.O. BOX 1489

WILMINGTON, DELAWARE 19899

(302) 655-9677

TELECOPIER (302) 655-7924

writer's e-mail address: VictorSr@batlaw.com

OF COUNSEL

JOHN BIGGS III

GERARD P. KAVANAUGH, SR.

S. BERNARD ABLEMAN

VICTOR F. BATTAGLIA
ROBERT D. GOLDBERG
PHILIP B. BARTOSHESKY
VICTOR F. BATTAGLIA, JR.

March 11, 2005

HAND DELIVER

Ms. Monica Gonzalez-Gillespie
Director of Personnel
Department of Personnel
City of Wilmington
800 North French Street, 4th Floor
Wilmington, DE 19801

RE: Michael Brown - Hostile Work Environment Complaint filed by Fray Lynch

Dear Ms. Gonzalez-Gillespie:

Michael Brown has delivered your letter of March 9, 2005 to me for reply.

It is important in a discussion of the content of your letter that it be put into context. Mr. Brown advises the meeting about which Officer Lynch complains was not a work place occurrence for him. it was a meeting which he attended as a public spirited citizen. Mr. Brown was not attending the meeting in his capacity as a City employee.

Serious questions were raised at the meeting about possible improper removal of police officers who were assigned to the Weed and Seed area.

A question was raised as to when the officers were removed from the Weed and Seed area and assigned outside that area.

Officer Lynch responded by stating that the "We (the officers) have not been moved in about a year." Mr. Brown knew that response was not true.

His comments that called the issue into question were within his First Amendment rights and he believes his comments were factual. Your letter seeks to impose some sanction for the exercise of those constitutional rights.

BIGGS AND BATTAGLIA

Ms. Monica Gonzalez-Gillespie
Director of Personnel
March 11, 2005
Page 2

I demand that you withdraw your letter immediately and apologize to Mr. Brown for the accusation. I will expect a reply to this request by March 16, 2005.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Victor F. Battaglia', with a stylized, cursive script.

Victor F. Battaglia

VFB/fkb

cc: Mr. William Montgomery
The Honorable Michael Brown
The Honorable Theodore Blunt, President City County
Alex Mili, Esquire
Ms. Elinza Cain

MEMORANDUM

TO: Michael A. Brown, Sr., Executive Director
William "Hicks" Anderson Community Center
Department of Parks and Recreation

FROM: Romain L. Alexander, Director
Department of Parks and Recreation



DATE: December 13, 2004

RE: WRITTEN DISCIPLINARY WARNING



It is the policy of the City of Wilmington to promote a productive work environment where all relationships among persons in the workplace will be free of any type of harassment.

This is to memorialize the meeting held on December 12, 2004 regarding a harassment complaint filed by Officer Fray Lynch. As you are aware, an investigation was done to determine the validity of the complaint.

As a result of the investigation, it was determined that you used sexually suggestive language that violates the **City's Harassment-Free Environment Policy**. You are hereby issued a written warning, and must comply with the following directives:

1. Refrain from this type of behavior in the future.
2. If you need to discuss an issue with Officer Lynch, you must use the Police Department chain of command.
3. If there is a need to meet or have direct communication with Officer Lynch, you must have a higher ranking police officer or official of the city present.
4. You are required to attend the next **Harassment-Free Work Environment and Policy** training; you must immediately contact Elinza Cain to schedule an appointment.
5. Review the attached Code of Ethics Policy Statement and City Code Provision and affirm to such by signing the statement; and returning this document to my office by December 28, 2004.

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December 13, 2004

Any future substantiated incidents of this nature may lead to further disciplinary action.

If you have any questions regarding this matter, feel free to contact me.

Cc: Monica Gonzalez-Gillespie, Director of Personnel
Alex Mili, Assistant City Solicitor
Elinza Cain, Employee Relations Advisor
Personnel file

RLA/lpj

**CITY OF WILMINGTON
PERSONNEL DEPARTMENT
POLICY AND PROCEDURE MANUAL TRAINING**

Instructor's Name: Elinza Cain Instructor's Signature: [Signature]

Instructor's Name: _____ Instructor's Signature: _____

Instructor's Name: _____ Instructor's Signature: _____

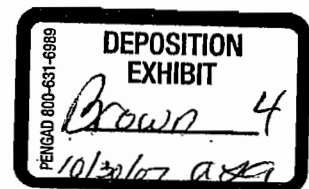
Length of Training: 2 hours

Orientation objective:

To provide managers/supervisors with pertinent information that will assist them with being knowledgeable regarding the City's policy and procedures.

Training outline:

1. Mayor's Letter
2. Code of Ethics (sign signature form)
3. Vision, Mission, Our Values
4. City of Wilmington – Constituent Bill of Rights
5. City of Wilmington – Organization Chart
6. Rules of Conduct:
 - EEO/AA Policy – Discrimination video
 - Harassment-free Work Environment – Sexual Harassment Video & Workplace Violence video
 - Drug Free workplace
 - Drug and Alcohol Abuse
 - No Smoking
 - Internet/Network Acceptable use (sign signature form)
7. Employment:
 - Personnel Requisition
 - Employee Criminal Background Review
 - Pre-Employment Drug Testing
 - CDL
 - Identification card
 - Post Resignation/Post Termination Procedures
 - Counseling/Discipline
8. Pay Practices:
 - Out of Class Pay
 - Advance Vacation Payment Request
9. Benefits/Programs:
 - Education Reimbursement
 - Employee Assistant Program



A-14

000025

10. Leaves:
 - Leaves of Absence
 - Military Leave
11. Health & Safety:
 - Executive Order – Threat Incident Management Plan (sign signature form).
 - Medical AIDS
 - Return to Work
 - Employee Incident
12. Miscellaneous:
 - Travel & Entertainment
 - Inclement Weather

I affirm that I attended this policy & procedures manual training. I affirm that I have received a copy of the City of Wilmington's Policy and Procedures Manual and I understand that it is my responsibility to uphold and observe all information contained within the manual.

Michael A. Blouin Jr.
Employee Name (Print)

[Signature]
Employee Signature

11-04-08
Date

Ex. Director
Employee Job Title

Park's
Department

JAMES M. BAKER
MAYOR

City of Wilmington
Delaware

LOUIS L. REDDING - CITY/COUNTY BUILDING
800 FRENCH STREET
WILMINGTON, DELAWARE
19801 - 3537



PERSONAL AND CONFIDENTIAL

Complaint: Hostile Work Environment
By: Fray Lynch, Police Officer, Wilmington Police Department
Against: Michael Brown, WHAAC, Department of Parks &
Recreation/Council Member-Elect
Date of Complaint: November 29, 2004

Background:

1. Officer Lynch is assigned to the Weed N' Seed program (hereafter 'the program'), which designates the police officer's deployment to a geographical location that includes the William Hicks Anderson Community Center (hereafter "the center"). At the time of the complaint, Michael Brown was the Executive Director of the center.
 - a. As part of the program, police officers regularly visit the center.
 - b. Mr. Brown had complained that the police officers assigned to this program did not visit the center as often as intended by the program.
2. Officer Lynch brought forth a formal complaint against Michael Brown alleging he used sexually explicit language on several occasions, which were offensive and was particularly offended during an interchange in Mr. Brown's office around the Memorial Day holiday. Upon receiving the complaint, Officer Lynch was asked to continue with the program, but to avoid visiting the center.
3. *Following an investigation, the finding concluded that Mr. Brown did use sexually explicit language and that these comments were inappropriate.*
4. Mr. Brown was trained on the City's Sexual Harassment policy and procedure on August 29, 2001. He also participated in training on the City's Personnel Policy & Procedure manual which contains the Harassment-Free Work Environment Policy & Procedure, the Code of Ethical Conduct Policy Statement and the Wilmington City Code Division 6 – City Employees' and Elected and Appointed Officials Code of Conduct November 4, 2004. *The City also provided Mr. Brown with copies of these rules with the complaint resolution of the Officer Lynch's first complaint.*

5. Community meetings are regularly held by Block Captains to discuss issues of concern in their immediate neighborhood. This meeting was of the WCNPAC group, *which is* Police Officers may be requested to attend these community meetings.

Findings:

1. A WCNPAC meeting was held on November 23, 2004 at a location on 6th and Madison Streets. Present at that meeting were Fray Lynch, Police Officer; Michael Groark, Police Officer; Michael Brown, Executive Director of WHAAC and Council Member-Elect; Marcia Starks, Mayor's Office representative; Hanifa Shabazz, Council –Member-Elect; and Bud Freel, Council Member among other community members.
2. There were six (6) witnesses interviewed including the complainant and the employee accused. The two Police Officers, the Council Member and a Mayor's Office staff member describe the behavior by Mr. Brown towards Officer Lynch during the community meeting of November 23, 2004 similarly as follows:
 - a. Upon being asked a question by a community member about the deployment of Weed N' Seed officers, Officer Lynch began to respond that they were only pulled when an emergency situation arose, when Mr. Brown interrupted and with a raised voice tone demanded that she "Tell the truth!" The officer ignored the comment and continued her response to the community member. Mr. Brown again interrupted Officer Lynch citing a time when the officers were pulled from the area and accusing the Officer once again of lying and not telling the truth.
 - b. At this time, Officer Groark tried to intervene and address the question; Mr. Brown persisted in aiming his comments exclusively at Officer Lynch. He demanded, "Officer Fray, answer the question!" Officer Lynch did not respond. Officer Groark once again began to respond. Then without further interruption, he explained that Mike Brown knows the chain of command for deployment and that rank and file officers simply follow the assignments from their superiors.
3. Michael Brown denied that he singled Officer Lynch out for his comments. Mr. Brown's attorney, Victor Battaglia, did acknowledge that his client does raise his voice when feels strongly about a subject.
4. Hanifa Shabazz, another witness, does not recall Mr. Brown's comments being directed at Officer Lynch. She remembers the exchange being between Mr. Brown and the male officer.

5. The result of this incident is that Officer Lynch no longer feels comfortable attending these types of meetings for fear of Mr. Brown once again challenging her in front of the public.

Conclusion:

The evidence suggests Michael Brown accused Fray Lynch of lying in a public forum with members of the community and other City officials. During this exchange, Mr. Brown used a tone and demeanor, which were intimidating and belittling of the officer as he repeatedly accused of Officer Lynch of not being truthful.

From this information the City has concluded that Mr. Brown exhibited unacceptable behavior that evening towards Officer Lynch.

This incident is compounded by the fact that Mr. Brown was found to have exhibited inappropriate behavior towards this officer in a previous complaint. Therefore, Mr. Brown's behavior, during that public meeting, could be viewed as retaliatory. Retaliation is prohibited and a violation of Personnel Policy #101.1.

Since Mr. Brown, WHAAC Executive Director at the time of the incident, worked with Officer Lynch, this behavior could also be termed harassment. Per policy 101.1(3), "Harassment in this policy is also defined as verbal or physical conduct that disrupts or interferes with another's work performance or creating an intimidating, offensive or hostile work environment."

This is the third documented incident in which female employees found comments made by Mr. Brown offensive. Not all of the allegations have been proven, however, these complaints do indicate a pattern of inappropriate behavior. Although retraining has been taken and the seriousness of these violations has been communicated, the pattern seems to continue.

The City finds this type of behavior unacceptable, however, Mr. Brown is no longer under the jurisdiction of the City of Wilmington as he became an elected official on January 4, 2005. Therefore, these findings will be forwarded to Theodore Blunt, President of City Council, for follow up. Recommendations for next actions should be referred to the City Solicitor's Office.

Complaint: Hostile Work Environment
By: Fray Lynch
Department: Police Department
Status: Regular
Against: Michael Brown
Title: Executive Director, William Hicks Anderson Community
Center/Council Member-Elect
Date of Incident: November 23, 2004

List of Employees Interviewed

Fray Lynch
Michael Brown
Michael Groark, Police Officer
Hanifa Shabazz, Council Member-Elect
Bud Freel, Council Member
Marcia Starks, Mayor's Officer Constituent Services Liaison

JAMES M. BAKER
MAYOR

City of Wilmington
Delaware

LOUIS L. REDDING - CITY/COUNTY BUILDING
800 FRENCH STREET
WILMINGTON, DELAWARE
19801 - 3537



MEMORANDUM

DATE: March 9, 2005

TO: Michael Brown, Council Member
City Council

FROM: Monica Gonzalez- Gillespie, ^{MB}Director of Personnel
Department of Personnel

RE: Hostile Work Environment Complaint file by Fray Lynch

It is the policy of the City of Wilmington to promote a productive work environment, where all relationships among persons in the workplace will be free of any type of harassment.

Officer Lynch has filed a hostile work environment complaint against you stemming from an incident in which she alleges that you singled her out during a public community meeting and accused her of being a liar with respect to the deployment of Weed and Seed officers. The complaint also stated that you raised your voice, used a demeaning and belittling tone, and repeatedly interrupted her as she tried to respond to a question from a community member. Officer Lynch feels this treatment was in response due to her pending harassment complaint.

The statements from the witnesses, as a whole, support the complaint as reported by Officer Lynch. The comments you made during that meeting were characterized as demeaning, belittling and aimed directly at this officer. This behavior was inappropriate and not acceptable under the City's Harassment-Free Work Environment Policy. Furthermore, there was a previous complaint from this particular complainant, which was partially substantiated. As a result, these findings will be forwarded to the President of City Council for follow-up.

Mr. Michael Brown, Council Member

Page 2

March 9, 2005

Harassment complaints are serious and should be taken as such, especially if the complaint is against a person in a management position. Please find the attached Harassment-Free Workplace Environment policy, which details the types of behavior that are unacceptable in the City of Wilmington workplace. All City employees are required to adhere to this policy, and specifically refrain from using any language or behavior that may be offensive or appear improper to other employees. Also be advised that any type of retaliation is illegal and unacceptable.

mgg

cc: Theodore Blunt, President, City Council
Alex Mili, Assistant City Solicitor
Elinza Cain, Employee Relations Advisor

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

FRAY LYNCH,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	06-351-JJF
)	
CITY OF WILMINGTON,)	
)	
Defendant.)	

Deposition of FRAY M. LYNCH taken pursuant to notice at the City of Wilmington Law Department, 800 North French Street, 9th Floor, Wilmington, Delaware, beginning at 2:00 p.m. on Wednesday, October 3, 2007, before Christina M. Vitale, Certified Shorthand Reporter and Notary Public.

APPEARANCES:

ROBERT T. VANCE, JR., ESQUIRE
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 For the Plaintiff

ALEX J. MILI, JR., SENIOR ASSISTANT CITY
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 1330 King Street - Wilmington, Delaware 19801

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A-22



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ORIGINAL

1 FRAY M. LYNCH, the deponent herein, having
2 first been duly sworn on oath, was examined and
3 testified as follows:

4 BY MR. MILI:

5 Q. How long have you been a police officer?

6 A. Approximately eight and a half years.

7 Q. Since 1999?

8 A. Yes.

9 Q. What is your educational background?

10 A. I have a bachelor's degree.

11 Q. In what?

12 A. In behavioral science.

13 Q. From where?

14 A. Wilmington College.

15 Q. When did you graduate?

16 A. December '05 I believe.

17 Q. What other law enforcement training have you
18 had besides the police academy?

19 A. Whichever ones the department sent me to, none
20 outside of the department.

21 Q. Tell me each of your assignments in
22 chronological order from the time you started with the
23 police department in 1999 until the present.

24 A. I was assigned to patrol. Then, I was

A-23



1 transferred to community policing, Weed and Seed
2 Program, and from Weed and Seed I was just back in
3 regular community policing and now I'm in HR, human
4 resources.

5 Q. How old are you?

6 A. Thirty-one.

7 Q. Are you married?

8 A. No.

9 Q. Do you have any other children?

10 A. Yes.

11 Q. How many?

12 A. One and one on the way.

13 Q. How many arrests have you made as a police
14 officer? Can you give me an approximation?

15 A. I can't give you that. I don't know. I don't
16 want to say too high or too low.

17 Q. Is it more than 100?

18 A. I'm not going -- I can't give you a number. I
19 don't know. I would have to research that for you.

20 Q. If you don't want to tell me --

21 A. It's not that I don't want to tell you. It's
22 that I don't have a current answer to give you.

23 Q. Have you ever disarmed someone with a gun?

24 A. Yes.



1 Q. How many times?

2 A. Once that I recall.

3 Q. What year?

4 A. I can't give you the year there. I would have
5 to research my records. We make a lot of arrests and
6 to give a date on one specific one I can't do that.

7 Q. Did it cause you any stress to disarm someone
8 armed with a gun?

9 A. No.

10 Q. Have you ever frisked anyone who had a gun on
11 them?

12 A. Not that I can recall, no.

13 Q. Have you ever had to use physical force on an
14 arrestee?

15 A. Yes.

16 Q. What kind of force?

17 A. I've used my ASP, I've used mace and I've used
18 my hands.

19 Q. Tell me about the situations where you had to
20 use an ASP.

21 A. Every single one?

22 Q. Yes.

23 A. Once again, I can't recall all of them. I can
24 tell you the ones I can recall right now.



1 Q. Please.

2 A. First one that I can recall is over at
3 Connections on West 10th Street in reference to a
4 call, I believe it came in as a psychotic man, and
5 when we got there to take him over to Wilmington
6 Hospital, he fought and resisted us. That was one
7 time for resisting arrest.

8 There have been numerous foot chases.
9 People don't comply once they get caught to put their
10 hands behind their back. I can specifically remember
11 one at I want to say the 200 block of North Broom
12 Street in reference to a robbery suspect that ran from
13 us that fled inside an apartment building.

14 I can tell you one when I first came out
15 of the academy on Lancaster Avenue out by the DAP for
16 attempted burglary from 4th and Union.

17 Q. Did these incidents cause you any stress?

18 A. Did they cause me any stress? Not the ones
19 that I mentioned.

20 Q. Are there encounters with arrestees that have
21 caused you stress?

22 A. I can say the couple car accidents I've been in
23 from the car chases.

24 Q. Tell me about those.

A-26



1 A. First one was a stolen vehicle that started in
2 the area of 22nd and Market, proceeded onto the west
3 side by St. Anthony's where he rammed my vehicle a
4 couple times and I ended up having surgery on my
5 shoulder from that incident.

6 There was another incident on 95 and they
7 fled south on 95 and he rammed my car trying to get
8 past it and ran me into the median in the center where
9 I injured my back.

10 Q. Do you find the job of a law enforcement
11 officer to be stressful?

12 A. Depends what day you are talking about. There
13 is no set schedule, so.

14 Q. On days when you are having these car chases
15 you just described do you find the job to be
16 stressful?

17 A. I wouldn't say stressful.

18 Q. What was your job assignment in the summer of
19 2004?

20 A. I was assigned to the Weed and Seed, community
21 policing.

22 Q. What reason did you have for being at the Hicks
23 Anderson Center for those job duties in summer of
24 2004?



1 A. Community contacts.

2 Q. Explain what that is.

3 A. It is making contact with the representatives
4 in the community to find out what the issues are for
5 the people that are there on a daily basis.

6 Q. Why specifically do you have to go to the
7 William Hicks Anderson Center to do that?

8 A. Because it actually fell into my area of the
9 Weed and Seed Program.

10 Q. What was Michael Brown's position at the Hicks
11 Anderson Center in 2004?

12 A. I believe he was executive director.

13 Q. Would you have to speak to him as part of your
14 job duties back then?

15 A. Because he was the director of the community
16 center where we had to make our contacts for
17 community. It wasn't just businesses, but personal
18 people too.

19 Q. What did you have to discuss with him?

20 A. Any issues that he would see in the community.
21 I didn't work 24 hours a day.

22 Q. What issues did he discuss with you?

23 A. A lot of drug dealing.

24 Q. Where?

A-28



1 A. Fifth and Madison.

2 Q. Anything else?

3 A. A lot of AB's in the park at 6th and Madison.

4 Q. Anything else?

5 A. And they had a basketball tournament was one of
6 the main things where a lot of fights broke out.

7 Q. Anything else?

8 A. Not that I can recall.

9 Q. You claim that Michael Brown made some comments
10 to you one day in the summer of 2004 at the Hicks
11 Anderson Center that you found to be appropriate. Can
12 you tell me how you came to the Hicks Anderson Center
13 on that particular day that these comments were made?

14 MR. VANCE: You mean inappropriate?

15 A. You mean I found to be inappropriate?

16 Q. I said inappropriate.

17 A. Can you rephrase the question?

18 MR. MILI: I'll ask the court reporter to
19 read it back to you.

20 (The last question was read back by the
21 court reporter.)

22 BY MR. MILI:

23 Q. Changing the word appropriate to inappropriate
24 please answer the question.



1 A. We used to go there, him being one of the
2 community centers in the Weed and Seed Program. Weed
3 and Seed Program was not all of, quote/unquote, 16th
4 district. It was a portion of that taken out and our
5 job as Weed and Seed officers was to make contact with
6 the people in there that saw the issues of whether it
7 be crime or AB juveniles, whatever their issues were.
8 He was the point of contact in reference to the
9 community center.

10 Q. How did you encounter him on that particular
11 day? What reason on that particular day did you have
12 for coming to see him?

13 A. On the day with my partner or by myself?

14 Q. The day of the incident that you are
15 complaining that he made some comments to you.

16 A. I was instructed to make contact with him
17 because I hadn't been going there.

18 Q. By whom were you instructed?

A-30

19 A. Sergeant Debbie Donohue.

20 Q. Why hadn't you been going there before?

21 A. Because he had made comments to me before that
22 made me feel uncomfortable.

23 Q. Putting aside this particular day that I just
24 asked you about the comments before did you complain



1 to anyone about those comments?

2 A. Before, no, not on record.

3 Q. Getting back to this day in the summer of 2004
4 did you make any complaints about those comments?

5 A. Not at that time, no.

6 Q. Did you eventually?

7 A. Yes.

8 Q. To whom?

9 A. Sergeant Donohue and also spoke to my partner
10 when he came back from vacation.

11 Q. Who was the partner?

12 A. Rob Curry.

13 Q. Anybody else?

14 A. No.

15 Q. Did you file a complaint with of the city
16 personnel department?

17 A. I brought the DI incident up through the chain
18 of command.

19 Q. Were you eventually interviewed by someone from
20 the city personnel department?

21 A. Yes.

22 Q. Do you know who interviewed you?

23 A. No.

A-31

24 Q. Do you remember what you discussed in that



1 interview?

2 A. Just the incident.

3 Q. Did you mention any eyewitnesses when you went
4 to that interview?

5 A. Yes.

6 Q. What eyewitnesses?

7 A. Gene Brown.

8 Q. Who is he?

9 A. At the time he was an employee of Hicks
10 Anderson.

11 Q. You say "at the time," do you know where he
12 works now?

13 A. I have no idea.

14 Q. Do you have reason to believe he no longer
15 works there?

16 A. I couldn't -- I don't know. I haven't worked
17 that area in a while.

18 Q. His last name is Brown, do you know if he is a
19 family relation to Michael Brown?

20 A. I don't know that either.

21 Q. Do you know if he worked under Mike Brown?

22 A. I believe that he did, but I can't say for
23 sure.

24 Q. What did Gene Brown witness?

A-32



1 A. The comment as far as, "She can do both of us."

2 Q. Did he witness anything else?

3 A. When he came into the room and requested the
4 keys him and Mike Brown were joking amongst each
5 other. The only thing that I can recall at this time
6 that Mike Brown said then -- I think Gene Brown said
7 something about fighting Mike or beating his ass like
8 in a joking manner and he said, "Not with this fine
9 police officer sitting here."

10 Q. Did Gene Brown witness anything else besides
11 that?

12 A. He witnessed me leave when he left after the
13 last comment was made.

14 Q. Are you aware of whether Gene Brown was
15 interviewed by anyone in the personnel department?

16 A. I have no idea.

17 Q. Michael Brown was elected to city council in
18 November of 2004, correct?

19 A. I believe so.

20 Q. After taking office do you know if Michael
21 Brown continued to work at the William Hicks Anderson
22 Center?

23 A. I don't know.

A-33

24 MR. VANCE: Could you read that question



1 back.

2 (The last question and answer was read back
3 by the court reporter.)

4 BY MR. MILI:

5 Q. Do you know if Gene Brown continued to work
6 under Michael Brown after Michael Brown became a city
7 council member?

8 A. I don't know.

9 Q. Do you know if Michael Brown was interviewed in
10 response to your complaint about this incident at the
11 community center?

12 A. I don't know. I mean, you can hear things, but
13 I don't know if it happened or not.

14 Q. When you say "you can hear things," did you
15 hear things?

16 A. I heard that he was interviewed.

17 Q. By whom?

18 A. I don't know.

19 Q. From whom did you hear this from is what I'm
20 asking?

21 A. Oh, I don't know, just people at work talking
22 about it. I don't recall any specific names.

23 Q. At some point did you get a letter or
24 correspondence from the personnel department

A-34



1 explaining to you what the decision was on your
2 complaint?

3 A. Eventually.

4 Q. What was the nature of that correspondence?

5 A. That they found him guilty of sexual comments,
6 but not sexual harassment.

7 Q. How long was this correspondence?

8 A. About a page.

9 Q. Did it say anything about whether Michael Brown
10 would be disciplined?

11 A. I don't recall.

12 Q. Are you aware of whether Michael Brown was
13 indeed disciplined for this incident?

14 A. I believe he was disciplined, yes.

15 Q. Why do you believe that?

16 A. To the best of my knowledge I believe I have a
17 paper in my packet that says he had to take the sexual
18 harassment class over again.

19 Q. You said you have a paper in your packet?

20 A. Just from everything that the city has sent to
21 me.

22 Q. Did the city send you something saying that
23 Michael Brown --

24 A. I believe so. I don't have everything in front



1 of me, but I believe so.

2 Q. Do you know whether Gene Brown has corroborated
3 your version of the events of this summer 2004
4 incident at the Hicks Anderson Center?

5 A. I don't know.

6 Q. After you reported this incident were you still
7 required to go to the Hicks Anderson Center?

8 A. No.

9 Q. Were you required to have any contact with
10 Michael Brown after you reported this incident?

11 A. A community meeting, I was ordered to go to a
12 community meeting.

13 Q. I'm going to ask you about that in a few
14 minutes.

15 A. But to have direct contact, no.

16 Q. Were there any restrictions on Mike Brown
17 having contact with you?

18 A. Yes.

19 Q. What restrictions?

20 A. He was not to have contact with me unless there
21 was a superior officer present at the time.

22 Q. And has there been any contact with a superior
23 officer since that time?

24 A. No.

A-36



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1 Q. The summer of 2004 incident did this incident
2 cause you any stress?

3 A. Yes.

4 Q. What kind of stress?

5 A. From that, from June of 2004? We haven't
6 gotten to November yet.

7 Q. We'll get there, I'm just asking about the
8 summer of 2004 incident.

9 A. Well, I felt very humiliated. I had asked him
10 before he even went on the record from June that I
11 wasn't comfortable with the comments he made and he
12 still, you know, said what he wanted to say.

13 Q. You didn't sue him in this case, did you?

14 A. He is part of it.

15 Q. You did sue him in this case?

16 A. Well, I don't know if I sued him as an
17 individual or as a representative of the city.

18 Q. Do you want him to be -- okay. Is it your
19 understanding that you did sue him in some capacity
20 and you are just not sure if it was as an individual?

21 A. Correct.

22 Q. Or a representative?

A-37

23 A. Correct.

24 Q. For the summer of 2004 incident are you taking



1 any medications as a result of that incident?

2 A. No.

3 Q. Are you seeing any medical professionals as a
4 result of the summer of 2004 incident?

5 A. No.

6 Q. Did you miss any time from work as a result of
7 the summer of 2004 incident?

8 A. No.

9 Q. Let's fast forward to I guess it would have
10 been late 2004, the community meeting. You claim at
11 some point that there were some words exchanged at a
12 community meeting that you attended with your then
13 partner, Mike Groark, is that correct?

14 A. Yes.

15 Q. Let me ask you, first of all, what was the
16 purpose of this meeting?

17 A. For the community, block captains and anybody
18 that wanted to attend with their issues in their
19 community.

20 Q. What are block captains?

A-38

21 A. People that are chosen to become the, quote/
22 unquote, president of their block to keep an eye on
23 things and the other block people would report to if
24 they had issues.



1 Q. You had this meeting obviously with your
2 partner, Mike Groark, and Mike Brown and a few others
3 were there. Can you tell me who else was there?

4 A. Marsha Starks, Hanifa Shabazz, Bud Freel.
5 There were others, I can't recall the block captains'
6 names and all that.

7 Q. Do you know -- I wouldn't hold you to an exact
8 date -- do you approximately when this meeting was?

9 A. End of November.

10 Q. Of what year?

11 A. 2004.

12 Q. Do you remember what time of the day it was?

13 A. It was an evening meeting, six, 6:30 maybe,
14 around there.

15 Q. Is that outside of the city's normal business
16 hours?

17 A. Depends in what capacity you work in the city.

18 Q. Is the city county building open after five
19 o'clock to the public?

20 A. No. A-39

21 Q. What was the location of this meeting?

22 A. It was the building on the corner of 6th and
23 Madison. I think it's 634 West 6th Street.

24 Q. Do you know if that's city property?



1 A. I'm not sure whose property it is.

2 Q. Why were you specifically at this community
3 meeting?

4 A. Because I was ordered to do so by my
5 lieutenant.

6 Q. Which lieutenant?

7 A. Mitchell Rock.

8 Q. What was discussed at the meeting?

9 A. The first issue that came up was why Weed and
10 Seed officers were being pulled from their assigned
11 areas to do other assignments within the city.

12 Q. Who brought this issue up?

13 A. One of the block captains.

14 Q. Did you have to give an explanation for that?

15 A. Yes.

16 Q. What was your explanation?

17 A. That we were not pulled to do other assignments
18 unless it's an officer's safety or a crime in
19 progress, robbery, burglary, shooting, anything like
20 that.

21 Q. After you gave that explanation then give me
22 the rest of the discussion.

23 A. I didn't get through the whole explanation
24 before I was interrupted by Mr. Brown.



1 Q. What did Mr. Brown say when he interrupted you?

2 A. He told me I was lying and if I was going to
3 tell it to tell it like it was and that he knew for a
4 fact that officers were pulled from Weed and Seed to
5 do other assignments because he had seen them within
6 the city.

7 Q. What was your response to that comment?

8 A. I reiterated what I had tried to say in the
9 beginning, same thing, we weren't pulled; however, if
10 something serious comes in and there is no one else to
11 respond, then, yes, we would go.

12 Q. Then, what happened?

13 A. He did the same thing again, at which time I
14 looked at my partner and kind of gave him the nod to
15 go ahead and take up the questions because I wasn't
16 going to engage in it anymore.

17 Q. Anybody else speak at this meeting?

18 A. Marsha Starks.

19 Q. What did she say? A-41

20 A. She pretty much defended what me and my partner
21 were trying to say, that we weren't pulled unless it
22 was for officer safety or serious crimes in progress.

23 Q. Did anybody else speak at this meeting?

24 A. Other than Mr. Brown?



1 Q. Yes.

2 A. I'm sure the other councilmen spoke. I can't
3 recall exactly what was said.

4 Q. Was this after the city council election?

5 A. I don't know when the city council election
6 was. It might have been after the election, but
7 before sworn in.

8 Q. Is it your understanding that Michael Brown was
9 speaking as a citizen or as a city employee?

10 A. At the time he was representing -- in my
11 opinion was represented west center-city.

12 Q. You say he represented west center-city?

13 A. Because he was talking about the issues of not
14 having police presence or uniforms in and around at
15 night.

16 Q. When he is saying this, is it your
17 understanding he is saying this in his capacity as a
18 city employee --

19 A. Yes.

20 Q. -- or as a citizen of Wilmington?

21 A. As a city employee.

22 Q. What makes you believe that?

A-42

23 A. Because, like I just said, the complaints were
24 that there weren't enough uniform presence in and



1 around west center-city.

2 Q. What was Michael Brown's job at the time he
3 made this comment?

4 A. He was still executive director for the center,
5 I believe.

6 Q. As executive director of the Hicks Anderson
7 Center how does that relate to this issue of police
8 presence in the surrounding west center-city area?
9 How does that fall under his domain?

10 A. Say that again.

11 Q. This concern that he raised about police
12 presence in the west center-city area how does that
13 fall under the job responsibilities of the person in
14 charge of the William Hicks Anderson Center?

15 A. Because it's his responsibility to keep the
16 children safe there.

17 Q. In all of west center-city?

18 A. No. I'm talking about in front of the center,
19 to come and go in and out of the center.

20 Q. Was he responsible for any area in addition to
21 the Hicks Anderson Center or right outside of it?

22 A. Is he responsible for that?

23 Q. Was he responsible for it at that time?

24 A. I don't know what his job responsibilities



1 were.

2 Q. What made you think that Mike Brown's
3 complaints at this community meeting were aimed toward
4 you specifically?

5 A. Because he was pointing his finger at me and
6 looking directly at me and every time someone else
7 tried to answer the question he said, "No, I'm not
8 asking the question to you, I'm asking it to Officer
9 Fray."

10 Q. Aside from that community meeting did you have
11 any other contact with Michael Brown?

12 A. He used to come into the building all the time,
13 the police building.

14 Q. He came in there, but, more specifically, did
15 you have any contact with him aside from him just
16 being in the same building with you?

17 A. Aside from him coming into my office for no
18 other reason?

19 Q. He came into your office? When?

20 A. I can't give you exact dates, but it was
21 documented that he had access from Captain Nancy
22 Dietz.

23 Q. It was documented that he came into your
24 office?



1 A. No, documented that he had access to the
2 building unlike any other city council member.

3 Q. Let me ask you about him coming into your
4 office, when did he do this?

5 A. It had to be after I came back off of my leave.

6 Q. When was that?

7 A. Sometime maybe March, April, '05.

8 Q. Were you in your office when he came in?

9 A. Yeah, it's a common office area as far as for
10 community policing, yes.

11 Q. Who else was present when he came into your
12 office?

13 A. Sergeant Dennis O'Connor was present a few
14 times.

15 Q. Is he a higher ranking officer?

16 A. Than myself?

17 Q. Yes.

18 A. Yes, he is a master sergeant.

19 Q. Any other times when Michael Brown came into
20 your office?

21 A. Corporal Groark has been in there before.

22 Q. No. Any other times when Michael Brown came
23 into your office?

24 A. Not that I can recall.

A-45



1 Q. Just this one time --

2 A. No, not one time, this was several times. I
3 can give you exact dates that it happened on this date
4 or that date, but he would make it known that he was
5 in the building by coming into the office.

6 Q. The office or your office?

7 A. You have to understand the way it's set up.
8 When you come in the door, there is five small offices
9 off of the main room. So, me being community policing
10 didn't have one of those small offices, we were all in
11 a common area.

12 Q. Did you file another complaint after this
13 community meeting back in November of 2004? When I
14 say "complaint," I mean an internal complaint.

15 A. I verbally expressed it and the supervisors
16 wrote it up.

17 Q. Which supervisors?

18 A. Dennis O'Connor and Captain Nancy Dietz.

19 Q. Were you interviewed about that complaint by
20 anyone?

21 A. Other than talking to them, no. A-46

22 Q. When you say "other than talking to them --"

23 A. I mean, when I talked to them, but I don't know
24 if you call that an interview or not. To actually sit



1 down and have an interview like this, no.

2 Q. Did you ever receive a written response to this
3 complaint?

4 A. No.

5 Q. Did this incident at the community meeting
6 cause you stress?

7 A. Yes.

8 Q. What kind of stress?

9 A. By the end of that I was very -- I felt
10 humiliated because he had done that in front of
11 everybody that was at the meeting. He totally
12 belittled me and called me a liar in front of everyone
13 and in my opinion tried to damage my character, my
14 reputation, with the people within the community.

15 Q. Did you have to take any medication in response
16 to this incident?

17 A. Yes, I saw a doctor for that.

18 Q. Which doctor?

19 A. I saw my primary care physician, Dr. Pahwa,
20 P-A-H-W-A.

21 Q. Any other medical professionals?

22 A. Dr. Ram, R-A-M, and Gail Levinson,
23 L-E-V-I-N-S-O-N.

24 Q. Is she a doctor?

A-47



1 A. No, I believe she is maybe like a clinical
2 psychologist or something, but she doesn't have doctor
3 status.

4 Q. Did you have to take any medication after this
5 incident?

6 A. Yes.

7 Q. What medication?

8 A. I believe it was Effexor.

9 Q. Anything else?

10 A. No. I experimented with a lot before I got it
11 right. I don't recall the other names.

12 Q. Experimented with a lot of what?

13 A. Different medications from the doctor, not on
14 my own personal use.

15 Q. Did you miss any time from work after this
16 community meeting incident?

17 A. Yes.

18 Q. How much time?

19 A. From the end of November sometime in March of
20 '05.

21 Q. End of November 2004 until March '05?

22 A. Yeah, I don't know exact dates.

23 Q. What did you do during that time?

24 A. I didn't do anything. I got help for myself.

A-48



1 Q. Did you go back to school during that time?

2 A. I don't think I was back. I might have been
3 already in school, I didn't go back to school.

4 Q. Did you increase your course load during that
5 time?

6 A. I don't believe so.

7 Q. Do you know if you took more credits during the
8 time you were off than in previous semesters?

9 A. I don't believe I did.

10 Q. Did you lose any pay from this time off?

11 A. Initially, yes. No, I didn't lose any pay.
12 I'm sorry, I didn't lose pay. Initially I lost sick
13 and vacation time.

14 Q. You say "initially," does that mean at some
15 point you got it back?

16 A. Yes.

17 Q. All of it?

18 A. Yes. A-49

19 Q. This is a copy of what is called a Disclosure
20 Statement. You gave a list or your attorney gave a
21 list of people who might have relevant information
22 about the case and I want to go through them one-by-
23 one skipping Mike Brown obviously because we already
24 discussed him at length. I want to know about each of



1 these people. Tell me what information they have
2 about the case. Start with Monica Gonzalez-Gillespie.

3 A. She was the investigating, I guess, person that
4 took the initial complaint back in June.

5 Q. Is that the one that interviewed you in the
6 summer of '04 after the Hicks Anderson incident?

7 A. I think she was there. I don't know if she
8 actually asked the questions.

9 Q. Did someone ask you questions?

10 A. Yes.

11 Q. Do you know who?

12 A. No.

13 Q. Next person is Theodore Blunt. What
14 information does he have on this case?

15 A. Just being the president of city council. I'm
16 not sure if Mike Brown fell under city council at the
17 time or fell under just the city employee.

18 Q. When you say "at the time," what time are you
19 referring to?

20 A. At the meeting, the end of November time.

21 Q. Michael Szczerba, he is obviously the chief of
22 police. What information did he have relevant to this
23 case?

24 A. All the paperwork that went through the chain



1 of command he had to sign this and send it up here.

2 Q. Did he discuss any of these incidents with you
3 personally?

4 A. No.

5 Q. Flip the page, please, Elinza Cain, who is she?

6 A. Employee relations advisor.

7 Q. What information does she have about this case?

8 A. I guess she would be pertinent to the fact of
9 making sure that each employee of the City of
10 Wilmington doesn't have to operate in a hostile work
11 environment, but I didn't have any contact with her.

12 Q. Do you know why her name is listed as someone
13 having information in this case?

14 A. Yeah, probably to make sure that each city
15 employee doesn't have to work in a hostile work
16 environment. So, I'm sure once the DI came up of
17 working in a hostile work environment she is added
18 into the mix. Like I said, I never spoke to her
19 directly or one-on-one about the incident.

20 Q. Gail Levinson, what information does she have?

21 A. That was the lady I was talking to. I think
22 she is a social psychologist or something, licensed
23 social worker.

A-51

24 Q. What specific information does she have about



1 this case?

2 A. I talked to her about all my thoughts and
3 feelings and emotions and everything that had gone on
4 at that time.

5 Q. Nellie Moore, what information does she have
6 about the case?

7 A. She has all the documentation of the doctor's
8 office being as she works at the city dispensary.

9 Q. Captain Michael Maggitti, what information does
10 he have?

11 A. I'm not sure.

12 Q. Do you know why he would be listed as someone
13 having information relevant to this case?

14 A. I'm sure it's something pertinent, but I don't
15 have an answer right now on why he is listed.

16 Q. These people were listed on your behalf so
17 that's why I'm asking. You have no idea?

18 A. At this time, no.

A-52

19 Q. Kyleneae Stribling, what information does she
20 have?

21 A. I think she was the one that actually put the
22 time back on my books or gave the okay to put the time
23 back on my books.

24 Q. Do you know why she gave the okay to put the



1 time back on your books?

2 A. Haven't talked to her. I don't know her.

3 Q. Bobbie DiVirgilio, what information does he
4 have?

5 A. It's a female. She actually had my case at the
6 Industrial Accident Board when we tried to come to
7 some kind of mediation with the city and they refused.

8 Q. How about David Raskin?

9 A. It's the city's doctor that I had a DI
10 evaluation with.

11 Q. Did you see the results of that evaluation?

12 A. I may have. I don't recall what they were at
13 this time.

14 Q. Michael Groark, what information does he have?

15 A. He was a witness at the community meeting that
16 night at the end of November.

17 Q. Lieutenant Mitchell Rock?

18 A. He was my supervisor at the time. Well, the --
19 well, not my sergeant, but my lieutenant at the time.

20 Q. Who was your sergeant at the time?

21 A. Debbie Donohue.

A-53

22 Q. For both incidents or just the summer of '04
23 incident?

24 A. No, I believe -- no, she was there for



1 November.

2 Q. How long did you work under Debbie Donohue's
3 supervision?

4 A. I don't recall when she came up. Had to be
5 over a year.

6 Q. Turn the page, please.

7 A. (Witness complies.)

8 Q. I think we discussed Eugene Brown? Debbie
9 Donohue, we discussed her at length. Captain Marlyn
10 Dietz, what information does he have?

11 A. He was the commander of my division, community
12 policing, at the time. He was Lieutenant Rock's
13 supervisor.

14 Q. What specific information does he have about
15 this case?

16 A. He actually wrote a hostile work environment on
17 my behalf because nothing was done the first time I
18 filed my complaint in June.

19 Q. When did he write that?

20 A. I don't know the date.

A-54

21 Q. Do you know to whom he addressed it?

22 A. Chief Szczerba where everything is addressed to
23 and it goes through the chain.

24 Q. The last one is a doctor?



1 A. That's my primary physician who prescribed my
2 meds during that time.

3 MR. MILI: I think we are finished. Your
4 attorney has the right to supplement the record if he
5 chooses; if not, we are done.

6 BY MR. VANCE:

7 Q. I believe you testified that Mr. Michael Brown
8 had made some comments to you that were inappropriate
9 prior to June of 2004?

10 A. Yes.

11 Q. Can you just state for the record what you
12 recall those comments were.

13 A. They were in effect of my pants were fitting me
14 nice, you could see everything, things of that nature.
15 Those are the only two I can recall at this time
16 specifically.

17 Q. And when he made these comments, was he still
18 the executive director of the recreation center?

19 A. Yes.

20 Q. And did he make these comments on more than one
21 occasion?

22 A. Yes.

A-55

23 Q. And on these occasions when he would make these
24 comments, did you inform him that you believed his



1 comments to be inappropriate?

2 A. Yes, and that I was involved in a relationship.

3 Q. Did he continue to make the comments after you
4 informed him that they were inappropriate?

5 A. Yes.

6 Q. Do you recall whether anyone else was present
7 when any of these comments were made?

8 A. No. He would never say that in front of
9 anybody else. That's why it was shocking that he said
10 it in front of Gene Brown that one day.

11 MR. VANCE: I don't have any other
12 questions.

13 MR. MILI: That prompts a few follow-up
14 questions.

15 BY MR. MILI:

16 Q. You were just asked about comments prior to the
17 June 2004 incident where Gene Brown was present. Did
18 you complain to anyone about those comments?

19 A. No, I didn't, no.

A-56

20 Q. Did Mike Brown have a boss or supervisor?

21 A. Not that I ever met that I was aware of, not at
22 the center.

23 Q. Isn't the Hicks Anderson Center part of the
24 Department of Parks and Recreation?



1 A. Yes.

2 Q. Do you know who the director of the Department
3 of Parks and Recreation is?

4 A. I believe it's Romaine Alexander.

5 Q. Isn't he Mike Brown's boss?

6 A. I guess.

7 Q. Did you ever complain to him about these
8 comments prior to the incident that Gene Brown
9 witnessed?

10 A. No, I didn't make any waves. I wasn't trying
11 to be transferred back to what we call the pit, which
12 is patrol.

13 Q. Why do you call that the pit?

14 A. Everybody calls it the pit because of the shift
15 work and working weekends and you are just at the
16 bottom of the barrel.

17 MR. MILI: That's it.

18 MR. VANCE: I don't have any other
19 questions.

20 (The deposition was concluded at 2:38 p.m.)

21

22

23

A-57

24



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I N D E X

DEPONENT: Fray M. Lynch	PAGE
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E X H I B I T S

(There were no exhibits marked for identification.)

CERTIFICATE OF REPORTER	PAGE 38
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1 State of Delaware)
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3
4 CERTIFICATE OF REPORTER

5 I, Christina M. Vitale, Certified Shorthand
6 Reporter and Notary Public, do hereby certify that
7 there came before me on Wednesday, October 3, 2007,
8 the deponent herein, FRAY M. LYNCH, who was duly
9 sworn by me and thereafter examined by counsel for
the respective parties; that the questions asked of
said deponent and the answers given were taken down by
me in Stenotype notes and thereafter transcribed by
use of computer-aided transcription and computer
printer under my direction.

10 I further certify that the foregoing is a true
11 and correct transcript of the testimony given at said
examination of said witness.

12 I further certify that reading and signing of
13 the deposition were waived by the deponent and
counsel.

14 I further certify that I am not counsel,
15 attorney, or relative of either party, or otherwise
interested in the event of this suit.

16

17

18

Christina M. Vitale, CSR

19

Certification No. 261-RPR

20

Expires January 31, 2008)

21

22 DATED:

A-59

23

24

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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FRAY LYNCH,)	
)	
Plaintiff,)	
)	Civil Action
v.)	No. 06-351
)	(JJF)
)	
CITY OF WILMINGTON,)	
)	
Defendant.)	

Deposition of MARCIA A. STARKS taken pursuant to notice at the law offices of the City of Wilmington Law Department, 800 North French Street, City/County Building, Ninth Floor, Wilmington, Delaware, beginning at 9:05 a.m. on Thursday, October 11, 2007, before Kathleen White Palmer, Registered Merit Reporter and Notary Public.

APPEARANCES:

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(302) 655-0477

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A-60

1 MARCIA A. STARKS,
2 the witness herein, having first been
3 duly sworn on oath, was examined and
4 testified as follows:

5 BY MR. VANCE:

6 Q. Could you state and spell your name for the
7 record, please?

8 A. Marcia Starks, M-a-r-c-i-a S-t-a-r-k-s.

9 Q. Good morning, Ms. Starks. I'm Robert Vance. I
10 represent Fray Lynch in the lawsuit that she's brought
11 against the City of Wilmington.

12 Have you ever had your deposition taken
13 before?

14 A. I can't remember. I'm not sure.

15 Q. I will be asking you questions related to the
16 lawsuit that she has brought, so I just want to go
17 over a few brief instructions.

18 When I ask you a question, just make sure
19 that you give verbal answers to the questions because
20 a record is being made of the proceedings and the
21 court reporter has to be able to take down your
22 responses. So don't shake your head up and down and
23 from side to side or anything like that.

24 Do you understand that?

A-61



1 A. Yes.

2 Q. During the deposition, and we won't be here
3 very long, but if you don't understand a question that
4 I ask you, please tell me that you don't understand it
5 and I'll rephrase the question because when I ask you
6 a question and you answer it, I'm going to presume
7 that you understood the question and that your answer
8 is responsive to the question that I posed.

9 Do you understand that?

10 A. Okay. Yes, I do.

11 Q. In the last day or so, have you taken any kind
12 of medication or any substance that might interfere
13 with your ability to understand my questions or to
14 answer them?

15 A. No.

16 Q. You understand you're testifying under oath
17 subject to the penalties of perjury?

18 A. Yes.

19 Q. Who is your current employer?

20 A. City of Wilmington.

21 Q. What's your current position?

22 A. Director of constituent services.

23 Q. How long have you had that position?

24 A. About -- been about two years now.

A-62



1 Q. Since about 2005?

2 A. Maybe about a year and a half. About a year
3 and a half.

4 Q. Do you recall when you first became director of
5 constituent services?

6 A. Yes, yes.

7 Q. When was that?

8 A. I couldn't give you the exact date about that
9 because I was interim director and then went into
10 directorship.

11 Q. When did you become the interim director?

12 A. Latter part of 2005, if I remember.

13 Q. Did you work for the city prior to that?

14 A. Yes.

15 Q. What position did you hold?

16 A. Community affairs advisor.

17 Q. How long did you hold that position?

18 A. Since 2001.

19 Q. Did you work for the city before that?

20 A. About 15, 20 years ago.

21 Q. Did you come back to the city in 2001 as the
22 community affairs advisor?

23 A. Yes.

A-63

24 Q. What were your duties as the community affairs



1 advisor?

2 A. The mayor had charged us to proactively go
3 throughout the city identifying problems that we may
4 encounter. Also attending civic and community group
5 meetings.

6 Q. In your capacity as the community affairs
7 advisor, who did you report to?

8 A. The director at that time and to our chief of
9 staff.

10 Q. Who were they?

11 A. Carolyn Martin Pettaway.

12 Q. Carolyn --

13 A. Carolyn Martin Pettaway.

14 Q. What was she?

15 A. She was director of constituent services.

16 Q. You reported to someone else, also?

17 A. Our chief of staff, Bill Montgomery.

18 Q. How is it that you obtained the position of
19 community affairs advisor?

20 A. I came in with the Baker administration. I'm a
21 political appointee.

22 Q. As political appointee, do you have any
23 understanding what rules and regulations you were
24 subject to?



1 A. (No response.)

2 Q. Do you want me to restate the question?

3 A. Yes.

4 Q. Let me ask it this way: Is there a process by
5 which someone who is not a political employee becomes
6 an employee in the city in Wilmington?

7 A. I don't know.

8 Q. What was your last position with the city prior
9 to 2001?

10 A. Worked as the account clerk in the finance
11 department.

12 Q. In that position, were you subject to any kind
13 of civil service regulations or other rules regarding
14 your conduct as an employee?

15 A. Just the rules that were stated at the time of
16 hire.

17 Q. You said you were a political appointee as the
18 community affairs advisor?

19 A. Correct.

20 Q. Did you supervise any people as the community
21 affairs advisor?

22 A. Basically no.

23 Q. Did you have regular work hours as the
24 community affairs advisor?



1 A. Our work hours were basically coming in at 8:00
2 and meetings were in the evenings and on Saturdays.
3 And so, you know, depending upon what the meetings
4 were for that day would depend upon the hours that you
5 were working. But under a normal day, it would be
6 eight to five.

7 Q. Were you paid by the hour?

8 A. No.

9 Q. You received a salary?

10 A. Yes.

11 Q. Did you get overtime?

12 A. No.

13 Q. So if you attended a community meeting at, say,
14 7:00, you weren't paid extra for that?

15 A. No.

16 Q. Would you take the time off during the day to
17 compensate for the time --

18 A. No.

19 Q. -- that you spent in the community meeting?

20 A. No.

21 Q. Have you ever worked for the Department of
22 Recreation for the City of Wilmington?

23 A. No.

A-66

24 Q. Do you know current Councilman Michael Brown?



1 A. Yes.

2 Q. When did you first meet him?

3 A. In 2000, I believe it was. 2000.

4 Q. Under what circumstances did you meet him?

5 A. He was having a meet-and-greet at his home and
6 I went with a friend.

7 Q. You were not working for the city at the time?

8 A. No.

9 Q. Was he running for office at the time?

10 A. No.

11 Q. Do you know what the purpose of the
12 meet-and-greet was?

13 A. I don't remember.

14 Q. Who was the friend that you went with?

15 A. I went with my daughter and also -- what was
16 the person's name? I can't even remember who it was
17 at the time.

18 Q. How many people attended the meet-and-greet?

19 A. Probably 50 people.

20 Q. Did you get an opportunity to speak with
21 Mr. Brown?

22 A. I met him, you know. A-67

23 Q. Did you form an impression about him when you
24 met him?



1 A. No.

2 Q. When's the next time you had any contact with
3 him?

4 A. I can't remember. I really don't know how long
5 after that.

6 Q. At some point did you become aware that he was
7 an employee of the Department of Recreation?

8 A. At that time, no.

9 Q. At some point after 2000 did you become --

10 A. Yes.

11 Q. -- aware he was running a recreation center?

12 A. After 2000?

13 Q. Yes.

14 A. No, because he wasn't.

15 Q. No, he wasn't in 2000; correct?

16 A. Right.

17 Q. Do you know what he was doing in 2000?

18 A. I was not sure, but I knew that he was not
19 parks and recs as I've come to find out.

20 Q. Was he a city employee in 2000 to your
21 knowledge?

22 A. Yes.

A-68

23 Q. You don't recall what capacity he worked in at
24 that point?



1 A. No.

2 Q. At some point in time you became aware that
3 Mr. Brown was an executive director at a city
4 recreation center; is that right?

5 A. Yes.

6 Q. When is it that you came to that knowledge?

7 A. That was in 2001. I believe it was 2001,
8 latter part or middle of 2001. I don't remember
9 exactly.

10 Q. How is it that you came to know that Mr. Brown
11 was running a rec center at that point in time?

12 A. I worked for the City of Wilmington and that
13 was a part of the City of Wilmington. I was aware of
14 the appointments and job placements.

15 Q. Did you understand that Mr. Brown was the
16 executive director of the city recreation center?

17 A. Yes.

18 Q. Did you have any understanding as to whether
19 the executive director position was an appointed
20 position like yours?

21 A. As far as I knew it wasn't.

22 Q. It was not?

23 A. No.

A-69

24 Q. Do you have any understanding as to how



1 Mr. Brown became the executive director of a city
2 recreation center?

3 A. No personal knowledge.

4 Q. Now, you were an attendee at a meeting, I
5 believe, in November of 2004 attended by Mr. Brown and
6 Officer Lynch. Do you recall that?

7 A. Yes.

8 Q. I don't want to ask you about that right now,
9 but I want to ask you about the time prior to that
10 meeting.

11 So prior to that November 2004 meeting, had
12 you been to any community meetings attended also by
13 Mr. Michael Brown?

14 A. Yes.

15 Q. How many meetings had you been to where he had
16 also been in attendance?

17 A. Probably about ten.

18 Q. What kinds of meetings were these?

19 A. Civic and community group meetings.

20 Q. Do you recall where the meetings took place?

21 A. Variety of places.

22 Q. What kinds of places?

A-70

23 A. Churches, senior centers, community centers,
24 yes.



1 Q. When you say "community centers," do you mean
2 recreation centers?

3 A. Some of them would be considered recreational
4 centers.

5 Q. Some were just other community centers?

6 A. Exactly.

7 Q. Do you know whether the senior centers where
8 you attended meetings that Mr. Brown also attended
9 were city property, were city buildings?

10 A. I wouldn't know if they were or not.

11 Q. Do you recall the names of any of the senior
12 centers where both you and Mr. Brown attended meetings
13 prior to November of 2004?

14 A. Sacred Heart, Claymoor Senior Center -- so
15 many. Those are the ones that come to mind.

16 Q. Do you know whether Sacred Heart Senior Center
17 is a city facility?

18 A. I don't believe so.

19 Q. Do you know whether Claymoor Senior Center is a
20 city facility?

21 A. I don't believe so.

A-71

22 Q. Do you recall the names of any of the community
23 centers where prior to November 2004 you attended
24 meetings that Mr. Brown also attended?



1 A. No. The only other place that I can think of
2 would be Fournier Hall.

3 Q. Fournier Hall?

4 A. Yes.

5 Q. Is that F-o-u-r-n-i-e-r?

6 A. I believe so.

7 Q. Is Fournier Hall a city property?

8 A. No.

9 Q. Do you recall the names of any of the
10 recreation centers where prior to November of 2004 you
11 and Mr. Brown attended meetings?

12 A. No.

13 Q. In these meetings, do you know whether
14 Mr. Brown was attending as the executive director of a
15 city recreation center?

16 A. I can't really say, you know. I can't really
17 say.

18 Q. Do you recall whether he spoke at any of these
19 meetings prior to November 2004?

20 A. Some of them he did and some of them he might
21 have after I left.

22 Q. Focusing on the ones where you recall --

23 (Interruption.)

A-72

24 (Fray Lynch is now present in the



1 deposition room.)

2 BY MR. VANCE:

3 Q. Focusing on the meetings where Mr. Brown spoke,
4 do you know in what capacity he was speaking?

5 A. I can't really say. At some of the meetings it
6 might have -- it was as the director of Hicks
7 Anderson.

8 Q. Hicks Anderson Recreation Center?

9 A. Yes.

10 Q. Did he introduce himself as the executive
11 director --

12 A. I don't remember how he introduced himself.
13 And let me say this: A lot of the times he would be
14 speaking after I left. He would be in attendance, but
15 he would be speaking after I left, I would imagine,
16 because...

17 Q. Well, I want you to focus on, if you can
18 remember the meetings where he spoke when you were
19 present. And you say at some of those meetings he
20 spoke as the executive director of the Hicks Anderson
21 Recreation Center?

22 A. Yes.

A-73

23 Q. But you don't recall whether he prefaced his
24 comments by saying, I'm Michael Brown, executive



1 director of the Hicks Anderson Recreation Center?

2 A. I don't remember.

3 Q. So why do you think on those occasions he was
4 speaking as the executive director of the Hicks
5 Anderson Recreation Center?

6 A. I'm just remembering that he would be speaking
7 about activities that were going on at the center.

8 Q. At any of the meetings that you attended prior
9 to November 2004 where Mr. Brown spoke, did he ever
10 say I am not speaking in my capacity as the executive
11 director of the Hicks Anderson Recreation Center?

12 A. I can't remember if he said that or not.

13 Q. Do you recall whether at any of the meetings
14 prior to November 2004 where Mr. Brown spoke he said
15 I'm speaking in my capacity as a private citizen?

16 A. I don't remember that.

17 Q. Prior to November of 2004, had you formed an
18 opinion about Mr. Brown as a person based on your
19 observations of him?

20 A. Yes.

A-74

21 Q. What was that opinion?

22 A. That he was a very vocal person, very
23 passionate, and abrasive.

24 Q. Prior to November of 2004, had you had the

1 opportunity to observe Mr. Brown interacting with
2 women?

3 A. Yes.

4 Q. Based on those observations, prior to November
5 of 2004, had you formed any opinion about him with
6 respect to the way he treated women or how he viewed
7 women?

8 A. No.

9 Q. Now I want to focus your attention on November
10 2004 and the meeting that you attended, Mr. Brown
11 attended, Officer Lynch and others attended. All
12 right?

13 Where did that meeting take place?

14 A. That took place at WCCCN PAC Center. 5th and
15 Madison I believe it is.

16 Q. Is WCCCN PAC a recreation center?

17 A. WCCCN PAC -- I don't know what they use their
18 center for other than meetings. That was my first
19 time there.

20 Q. But it's not called WCCCN PAC Recreation Center?

21 A. No.

22 Q. It's just called WCCCN PAC Center; is that
23 correct?

24 A. As far as I know.

A-75



1 Q. Do you know whether WCCCN PAC Center was a
2 city-owned building?

3 A. I don't know.

4 Q. What time did the meeting start?

5 A. I can't remember if it was six or seven. It
6 was an evening meeting.

7 Q. Why were you at the meeting?

8 A. As a community affairs advisor.

9 Q. Who had asked you to attend the meeting?

10 A. It was just a group that we attend all the
11 meetings for the City of Wilmington, all community and
12 civic organizations. So it's on the calendar.

13 Q. Which is my next question.

14 How did you know that the meeting was going
15 to even take place?

16 A. We have a calendar of all meetings that take
17 place in the City of Wilmington for community and
18 civic organizations and they contact our office to ask
19 for representation.

20 Q. Was there a particular group or group that
21 sponsored the meeting that night?

22 A. WCCCN PAC group.

23 Q. What is WCCCN PAC group?

A-76

24 A. West Center City Community Action -- something



1 or other.

2 Q. That's an acronym, WCCCNPAC?

3 A. Yeah.

4 Q. What is WCCCNPAC? Is it a city agency?

5 A. I don't believe so. It is a community
6 organization.

7 Q. Do you know how far in advance the WCCCNPAC
8 group meeting had been put on the schedule?

9 A. The -- as far as I know, they meet monthly.

10 Q. Do you recall what the purpose of the meeting
11 was that evening?

12 A. I don't remember what the focus of the agenda
13 was.

14 Q. Did you attend the meeting with any other --
15 let me ask this question: Were there other community
16 affairs advisors at the time?

17 A. There were others, yes.

18 Q. Did you attend the meeting with other community
19 affairs advisors?

20 A. No.

21 Q. The meeting occurred in November 2004 after the
22 general election; is that right?

23 A. I believe it was.

A-77

24 Q. As of that date, were you aware of whether



1 Mr. Brown had been elected to the Wilmington City
2 Council?

3 A. Yes.

4 Q. He had been?

5 A. As far as I remember, yes.

6 Q. Now, you said that the WCCCN PAC meeting was put
7 on a calendar that you had access to; is that right?

8 A. There's a community directory that has all of
9 that information in it.

10 Q. Who has access to that community directory?

11 A. Anyone in the city.

12 Q. Any person in the City of Wilmington?

13 A. Yes.

14 Q. Where can the directory be found?

15 A. In the constituent service office, City of
16 Wilmington. We mail it out to all communities and
17 churches and agencies in the city and any resident
18 that wants one.

19 Q. When you arrived at the meeting that evening,
20 was Mr. Brown already there?

21 A. No.

22 Q. Was Officer Lynch there?

A-78

23 A. We got there about the same time.

24 Q. Can you tell me how that meeting proceeded?



1 A. It wasn't a good meeting. And I can't remember
2 what the issue at hand was, but the -- there was an
3 issue that the community was concerned about. I don't
4 remember exactly what that issue was.

5 Q. Do you recall how many people attended the
6 meeting?

7 A. It was about 15. I think around 15.

8 Q. By the time Mr. Brown arrived, were there
9 approximately 15 people at the meeting?

10 A. Mm-hmm.

11 Q. Yes?

12 A. Yes. Sorry.

13 Q. Do you recall who was running the meeting?

14 A. If I remember correctly, one of the officers of
15 the WCCCN PAC Center was heading up that meeting. I
16 think his name is Jerry. I can't remember. I think
17 it's Jerry.

18 Q. Other than Officer Lynch, was there any other
19 police officers present at the meeting?

20 A. Yes.

21 Q. Do you know how many?

22 A. One.

A-79

23 Q. Do you know who that person was?

24 A. Oh, I think it was Officer Groark, I believe.



1 Q. Had you known Officer Groark prior to that
2 meeting?

3 A. Yes.

4 Q. Other than yourself and Officer Lynch and
5 Officer Groark, were there any other city employees
6 present at the meeting before Mr. Brown arrived?

7 A. City employees?

8 Q. Right, that you were aware of.

9 A. Not that I was aware of.

10 Q. Do you know Eugene Brown?

11 A. No.

12 Q. So at what point during the meeting did
13 Mr. Brown arrive?

14 A. I would say about 15 or -- about 15 minutes
15 after it had started, after I arrived.

16 Q. What did he do when he entered the meeting?

17 A. Came in and sat down.

18 Q. Was someone speaking when he entered the
19 meeting?

20 A. There might have been.

21 Q. You don't remember?

22 A. I don't remember.

A-80

23 Q. At some point Mr. Brown spoke at the meeting?

24 A. Yes.



1 Q. Before he spoke, was he introduced by anybody
2 at the meeting?

3 A. I don't remember.

4 Q. When Mr. Brown spoke, first spoke at the
5 meeting, what did he say?

6 A. I don't remember his words that he initially
7 spoke. I don't remember the words that he initially
8 spoke.

9 Q. To whom was he speaking when he first spoke at
10 the meeting?

11 A. To the general -- general crowd there, I
12 believe.

13 Q. Was someone else talking when Mr. Brown first
14 spoke?

15 A. I don't remember.

16 Q. You don't recall whether he interrupted someone
17 else who was speaking during the meeting?

18 A. I don't remember.

19 Q. At some point during the meeting do you recall
20 Mr. Brown addressing Officer Lynch?

21 A. Yes. A-81

22 Q. At what point did he address Officer Lynch?

23 A. What do you mean?

24 Q. At what point during the meeting did he address



1 her?

2 A. Just during the course of the meeting.

3 Q. What had Officer Lynch said before Mr. Brown
4 addressed her, if you remember?

5 A. Nothing.

6 Q. What did he say to her when he addressed her?

7 A. I don't remember his words. I don't remember
8 his words, just his tone.

9 Q. What was his tone?

10 A. Abrasive and loud.

11 Q. Was Officer Lynch standing when he addressed
12 her?

13 A. No.

14 Q. She was seated?

15 A. Yes.

16 Q. Seated at a table?

17 A. Yes.

18 Q. Was the meeting around a conference table of
19 some kind?

20 A. Yes.

A-82

21 Q. Was Mr. Brown seated when he addressed Officer
22 Lynch?

23 A. Yes.

24 Q. At any point did he stand up when he addressed



1 her?

2 A. I don't remember.

3 Q. So you said his tone was abrasive?

4 A. Yes.

5 Q. Why do you say that?

6 A. The tone of voice was abrasive.

7 Q. How did Officer Lynch react to Mr. Brown's
8 statements?

9 A. She didn't. She didn't.

10 Q. She didn't react at all?

11 A. I don't know what you mean by "react."

12 Q. Did the expression on her face change when he
13 began to direct his comments to her?

14 A. Yes.

15 Q. How did it change? From what to what?

16 A. Shock.

17 Q. Did she say anything in response to Mr. Brown's
18 statements to her?

19 A. I don't remember. A-83

20 Q. Did anyone else say anything in response? Did
21 anyone else say anything to Mr. Brown in response to
22 his statements to Officer Lynch?

23 A. I don't remember.

24 Q. Would you say that Mr. Brown was yelling at



1 Officer Lynch?

2 A. His tone was very loud.

3 Q. For what period of time was he addressing
4 Officer Lynch in that tone of voice?

5 A. I can't say -- I can't give you minutes or -- I
6 can't give you minutes or seconds or anything like
7 that.

8 Q. Did he yell at her on more than one occasion
9 during the meeting?

10 A. At that point it became a blur to me.

11 Q. What became a blur?

12 A. The meeting itself.

13 Q. Why is that?

14 A. Just the tone of the meeting.

15 Q. Were other people in the meeting yelling at
16 that point in time?

17 A. (No response.)

18 Q. Or speaking in loud tones?

19 A. Yes.

A-84

20 Q. Who else was speaking in loud tones?

21 A. I don't even know the names.

22 Q. Do you recall the substance of anything that
23 Mr. Brown said?

24 A. I believe it was against the police officers.

1 Q. Officer Lynch and Officer Groark?

2 A. Police officers, period.

3 Q. In general?

4 A. In general.

5 Q. Did the other police officer address Mr. Brown?

6 A. I believe Officer Groark did, but I don't
7 remember what he said.

8 Q. Did Mr. Brown direct any other comments at
9 Officer Lynch that you recall?

10 A. I believe he did.

11 Q. Do you recall what he said?

12 A. No, no.

13 Q. At that meeting did Mr. Brown preface his
14 remarks by saying I'm speaking as a private citizen?

15 A. I don't remember him saying that.

16 Q. Did he preface his remarks by saying, I am
17 Michael Brown, executive director of the Hicks
18 Anderson Recreation Center?

19 A. I don't remember him saying that, either.

20 Q. Did he say, I'm Michael Brown, newly elected
21 city councilperson-at-large for the City of
22 Wilmington?

A-85

23 A. I don't remember him saying that, either.

24 Q. Did you have any understanding of what capacity



1 Mr. Brown was attending that meeting in?

2 A. Really, I can't say. I really can't say
3 truthfully. I can't say.

4 Q. Did you know any of the other people who
5 attended the meeting other than Officer Lynch and
6 Officer Groark and Mr. Brown?

7 A. Yes.

8 Q. Did you speak with any of them about what
9 occurred at the meeting that night?

10 A. Yes.

11 Q. Who did you talk to about that?

12 A. Councilman Bud Freel.

13 Q. What did you discuss with Councilman Freel?

14 A. What a horrible meeting it was.

15 Q. Did he respond to that comment?

16 A. He felt that it was, also.

17 Q. Did he tell you why he felt it was a horrible
18 meeting?

19 A. It got out of hand.

20 Q. Did he tell you why he thought it got out of
21 hand?

22 A. A variety of reasons.

A-86

23 Q. What were those reasons?

24 A. The attack on our -- on the police officers and



1 the general consensus as to what was happening in that
2 area.

3 Q. When you say "the attack" on the police
4 officers, do you mean Mr. Brown's comments directed to
5 Officer Lynch?

6 A. Verbal attack.

7 Q. But Mr. Brown's comments; is that correct?

8 A. Mr. Brown's comments.

9 Q. And that --

10 A. And also the comments of someone else that was
11 there, and I don't remember who it was.

12 Q. What were those comments?

13 A. They were just not -- they were negative
14 comments about the police.

15 Q. By someone other than Mr. Brown?

16 A. Mr. Brown and someone else.

17 Q. Who was the other person?

18 A. I don't remember who that was.

19 Q. Did Councilman Freel criticize Mr. Brown's
20 conduct during that meeting?

21 A. To me?

22 Q. Yes.

A-87

23 A. Not to me.

24 Q. Do you know whether he criticized his conduct



1 to others?

2 A. I don't know.

3 Q. Did you know anybody else at the meeting other
4 than Councilman Freel?

5 A. Yes.

6 Q. Did you speak to that person about what
7 occurred at the meeting?

8 A. No.

9 Q. Did anyone at the meeting talk to you about
10 their impressions of the meeting other than Councilman
11 Freel?

12 A. And Fray and I spoke about that.

13 Q. When did you speak with Officer Lynch?

14 A. It might have been a couple days later.

15 Q. What --

16 A. Or right outside of the meeting. Right outside
17 of the meeting first.

18 Q. Can you tell me about that conversation?

19 A. Just were both in a state of shock.

20 Q. What did Officer Lynch say to you?

21 A. She just couldn't believe it. "I can't believe
22 that."

23 Q. What did you say to her?

A-88

24 A. I really can't give you my exact words or even



1 close to it, but I just expressed my shock at things
2 that were being said.

3 Q. Getting back to the actual meeting, after
4 Mr. Brown directed his comments at Officer Lynch, did
5 the meeting end at that point?

6 A. We got up and left.

7 Q. When you say "we," who is "we"?

8 A. The two officers, Fray and Groark, Bud Freel,
9 and myself. I can't remember if the meeting ended or
10 us leaving ended it. I don't -- I don't recall that.
11 I just know that very shortly after that we left.

12 Q. Did you speak with Mr. Brown about that meeting
13 at any point after the meeting?

14 A. No, no.

15 Q. Have you ever had any conversations with him
16 about that meeting --

17 A. No.

18 Q. -- since then?

19 A. No.

20 Q. Has he attempted to contact you about the
21 meeting?

22 A. No.

A-89

23 Q. During your conversation with Officer Lynch
24 after the meeting, after that incident involving



1 Mr. Brown, did she indicate to you that she and
2 Mr. Brown had had prior conflict?

3 A. Yes.

4 Q. What did she tell you?

5 A. That there had been an incident that her and
6 Mr. Brown had had around this incident, there had been
7 some problems.

8 Q. Were you aware of Mr. Brown having problems
9 with any other city employees prior to that meeting?

10 A. No.

11 Q. Excuse me?

12 A. No.

13 Q. How about subsequent to that meeting?

14 A. Not to my knowledge.

15 Q. Now, at some point after the meeting, were you
16 contacted by anyone from the city to give a statement
17 about what occurred at the meeting?

18 A. Yes.

19 Q. Who contacted you?

20 A. Our personnel department and law department.

21 Q. Who contacted you from the personnel
22 department?

A-90

23 A. I believe it was Monica Gonzalez-Gillespie, our
24 director.



1 Q. Who contacted you from the law department?

2 A. Alex was the person that I met with at that
3 time, Alex Mili.

4 MR. MILI: Before you go any further, I
5 want to say for the record she's instructed not to
6 answer any questions about conversations that she had
7 with myself or any of the attorneys from the law
8 department. That is attorney/client privilege.

9 So if Mr. Vance decides to ask you any
10 questions about this conversation, I'm going to
11 instruct you not to answer.

12 THE WITNESS: Okay.

A-91

13 BY MR. VANCE:

14 Q. I want to ask you about your conversations with
15 Monica Gonzalez-Gillespie.

16 What did you discuss with her? And I want
17 to make sure that in responding you tell me what you
18 discussed with her outside the presence of either
19 Mr. Mili or any other attorney for the city.

20 A. I didn't meet with her or discuss anything with
21 her outside of the presence of Mr. Mili.

22 Q. All right. So on each occasion when you and
23 Miss Gonzalez-Gillespie discussed the November 2004
24 incident involving Officer Lynch and Michael Brown,



1 either Mr. Mili or another attorney from the city was
2 present; is that correct?

3 A. That's correct.

4 Q. Did you have any conversations with any city
5 employee other than Miss Gonzalez-Gillespie or
6 Mr. Mili concerning that November 2004 incident that
7 we haven't already discussed during the deposition?

8 A. No, no.

9 Q. Did you sign any document related to what
10 occurred at the November 2004 meeting between Officer
11 Lynch and Mr. Brown?

12 A. I don't remember if I signed a document after I
13 gave a statement. I don't remember if I signed --
14 it's been awhile, but I don't remember.

15 Q. You don't recall after any discussions you had
16 whether you actually signed a document, any
17 discussions you had with Miss Gonzalez-Gillespie and
18 Mr. Mili, whether you signed a document?

19 A. I don't recall. A-92

20 Q. Just give me a minute and I think I might be
21 finished.

22 As a city employee, or prior to November
23 2004, had you received any kind of training related to
24 sexual harassment, racial harassment, and harassment



1 at work?

2 A. Yes.

3 Q. What kind of training had you received?

4 A. The city has a class for that and I attended it
5 and received certification for that.

6 Q. And that was after you were appointed as a
7 community affairs advisor?

8 A. That's correct.

9 Q. Did you attend that class on one occasion or
10 were you required to attend it every year or on some
11 other periodic basis?

12 A. No. I attended the one.

13 Q. You obtained a certificate for successfully
14 attending the class?

15 A. Yes.

16 Q. Was it an all-day class?

A-93

17 A. It was a half-a-day class.

18 Q. What took place during the class?

19 A. Instruction, interaction. Rules and
20 regulations were discussed. The city code was
21 distributed at that time about sexual harassment.

22 Q. When you say "the city code," what do you mean
23 by that?

24 A. The personnel code, I guess, to that.



1 Q. A portion of the personnel manual relating
2 to --

3 A. Yes.

4 Q. -- sexual harassment?

5 A. Yes.

6 Q. Anything else you recall about the class?

7 A. No.

8 Q. Is it your understanding that that class was
9 required of all city employees?

10 A. I don't know. I believe it was.

11 Q. Is it your understanding that city employees
12 were required to take the class only once and
13 successfully complete it?

14 A. Oh, I don't know.

15 Q. For the record, the center that Mr. Brown was
16 the executive director of was the William Hicks
17 Anderson Community Center; is that correct?

18 A. That's correct.

A-94

19 Q. At any point during the meeting in November
20 2004, do you recall Mr. Brown stating that he was not
21 attending the meeting in his capacity as a city
22 employee but as a private citizen?

23 MR. MILI: Objection. Asked and answered.

24 You can still answer.



1 Q. You can answer the question.

2 A. I don't remember. I don't remember.

3 Q. Okay.

4 MR. VANCE: I don't have any other
5 questions for you.

6 MR. MILI: Neither do I.

7 You can read the transcript when it's ready
8 or you can waive reading if you trust her to take the
9 transcript accurately.

10 THE WITNESS: Waive reading.

11 (The deposition was then concluded at
12 9:55 a.m.)

13 - - - - -

14

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16

MARCIA A. STARKS

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20

21

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(No exhibits marked for identification.)

23

24

- - - - -



1 State of Delaware)
2 New Castle County)

3
4 CERTIFICATE OF REPORTER

5 I, Kathleen White Palmer, Registered
6 Professional Reporter, do hereby certify that there
7 came before me on the 11th day of October, 2007, the
8 deponent herein, MARCIA A. STARKS, who was duly sworn
9 by me and thereafter examined by counsel for the
respective parties; that the questions asked of said
deponent and the answers given were taken down by me
in Stenotype notes and thereafter transcribed into
typewriting under my direction.

10 I further certify that the foregoing is a
11 true and correct transcript of the testimony given at
said examination of said witness.

12 I further certify that reading and signing
13 of the deposition were waived by the deponent and
counsel.

14 I further certify that I am not counsel,
15 attorney, or relative of either party, or otherwise
interested in the event of this suit.

16
17
18 COPY

A-96

19
20 Kathleen White Palmer, RPR, RMR, CLR
21 Certification No. 149-RPR.
(Expires January 31, 2008)

22
23 DATED: October 11, 2007
24



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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,

Plaintiff,

v.

CITY OF WILMINGTON,

Defendant.

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:
:
:

C.A. NO. 06-351 JJF

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Alex J. Mili, Jr, Esquire, hereby certify that on this 14th day of November, a copy of the Appendix to Defendant's Opening Brief in Support of its Motion for Summary Judgment Volume I was served with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following and that these documents are available for viewing and downloading from CM/ECF

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/s/ Alex J. Mili, Jr.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,

Plaintiff,

v.

CITY OF WILMINGTON,

Defendant.

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C.A. NO. 06-351 JJF

JURY TRIAL DEMANDED

**APPENDIX TO DEFENDANT'S OPENING BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT**

VOL. II

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Dated: November 14, 2007

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1 MICHAEL BROWN,
2 the deponent herein, having first
3 affirmed, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MR. VANCE:

7 Q. Good afternoon, Mr. Brown. I'm Robert Vance. I
8 respect Fray Lynch in this lawsuit she's brought against
9 the City of Wilmington. Have you ever had your
10 deposition taken before?

11 A. Yes.

12 Q. Let me run over some of the rules briefly. Make
13 sure when you give a response to my questions that your
14 response is verbal. Don't shake your head up and down,
15 anything like that, because Mr. Bailey, the reporter, is
16 making a record and he can't interpret your body
17 movements, sounds and things like that that are not
18 words. Do you understand that?

19 A. I do.

A-98

20 Q. Secondly, when I ask you a question, make sure
21 that you understand the question. If you don't
22 understand it, tell me that you don't understand. I'll
23 rephrase it. Because when I ask you a question and you
24 answer it, I'm going to presume that you understood the



1 question and that your answer is responsive to the
2 question that I posed. Do you understand that?

3 A. I do.

4 Q. If during the deposition for whatever reason you
5 want to change an answer that you previously gave, please
6 feel free to do that, because I want your testimony to be
7 as accurate as possible. Do you understand that?

8 A. I do.

9 Q. If you want to take a break at any point in the
10 deposition, let me know, I'll accommodate you. But if
11 I've asked you a question, make sure you answer the
12 question first and then you can take your break. Do you
13 understand that?

14 A. I do.

15 Q. You understand that you are testifying under oath
16 and subject to the penalties of perjury?

17 A. I understand, sir.

18 Q. And in the last day or two have you taken any
19 kind of medication or any drug that might interfere with
20 your ability to understand my questions or to answer
21 them?

22 A. No, sir.

23 Q. Okay. Can you tell me about your educational
24 background?

A-99



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1 A. I graduated from high school, 1973.

2 Q. What high school was that?

3 A. Louis D. Brandeis High School in New York City.

4 Q. Did you attend college?

5 A. Yes, I have, sir.

6 Q. Go ahead.

7 A. Graduated with a B.S. from Springfield College.

8 Q. What year was that?

9 A. 1999.

10 Q. Where is Springfield College?

11 A. The main campus is in Massachusetts, but we have
12 an annex here in Wilmington. It was located at 5th and
13 Shipley, but they moved to the Nemours Building on 10th
14 Street.

15 Q. What was your degree in?

16 A. Human services.

A-100

17 Q. Did you have a postgraduate degree?

18 A. No, sir.

19 Q. Do you have any certifications of any kind?

20 A. None to speak of.

21 Q. Okay. How long have you worked or how long did
22 you work for the City of Wilmington?

23 A. I'm still employed. Since 1994 I believe, April
24 1994.



1 Q. What was your first position with the city?

2 A. Worked out of a grant, SALLE grant for youth
3 intervention through the Wilmington Police Department.

4 Q. What was your position?

5 A. Youth intervention specialist.

6 Q. But you were a city employee. Is that right?

7 A. That's correct.

8 Q. How long were you a youth intervention
9 specialist?

10 A. Until 1997 -- I'm sorry. Until 2000.

11 Q. April of 1994 to 2000?

12 A. That's correct.

13 Q. Do you recall when in 2000 you stopped being a
14 youth intervention specialist?

15 A. I believe it was June 30th, 2000.

16 Q. What was your next position with the City of
17 Wilmington?

18 A. Executive director, William Hicks Anderson
19 Community Center.

20 Q. Did you begin that position in July of 2000?

21 A. My apologies, it was 2001. The mayor was elected
22 in 2000 and sworn in 2001. They eliminated the position
23 of youth intervention in 2001, so I went to Hicks
24 Anderson in 2002.

A-101



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1 Q. When in 2002?

2 A. July, July 1, 2002.

3 Q. Were you employed by the city between June 30,
4 2001 and July 1, 2002?

5 A. June 30 what?

6 Q. 2001. Is that when you stopped being a youth
7 intervention specialist?

8 A. Yes.

9 Q. July 1, 2002 you said you became the executive
10 director?

11 A. That's correct. My employment with the city is
12 from 1994 until present, 2007.

13 Q. I'm trying to find out what you did for the city
14 between June 30, 2001 and July 1, 2002?

15 A. I had -- if you remember I said I was sorry. I
16 didn't mean to use the word sorry, I apologize. I worked
17 as a youth intervention up to June 30, 2002. My
18 apologies.

19 Q. All right. Okay. So you were the executive
20 director of the William Hicks Anderson Community Center
21 from July 1, 2002 until when?

22 A. December 31st, 2004. A-102

23 Q. All right. What was your next position with the
24 City of Wilmington?



1 A. I ran for office and I got sworn in as a city
2 councilman January 4th I believe it was of 2005,
3 officially as an elected official then.

4 Q. That's your current role?

5 A. That is correct.

6 Q. Who did you work for just prior to coming to work
7 with the city as the youth intervention specialist?

8 A. I believe it was Gary Hayman, Hayman Enterprise,
9 and Christina School District as a paraprofessional, I
10 believe.

11 Q. Gary Hammond?

12 A. H-A-Y-M-A-N.

13 Q. Enterprise?

14 A. Hayman Enterprise, that is correct.

15 Q. The Christiana School District?

16 A. Christina.

17 Q. What was your position there?

18 A. Where?

19 Q. Gary Hayman Enterprise and Christina?

20 A. I ran property management, I did property
21 management for him and his company.

22 Q. When you became the executive director of William
23 Hicks Anderson Community Center, was that a political
24 appointment?

A-103



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1 A. No, sir.

2 Q. Civil service position?

3 A. It was a merit position, sir.

4 Q. Were you appointed by the mayor?

5 A. No, sir. It was a merit position, sir.

6 Q. Excuse me?

7 A. That was a merit position, sir.

8 Q. You competed with other candidates for that
9 position?

10 A. No, sir.

11 Q. Who appointed you to that position?

12 A. It was a merit position, sir.

13 Q. How did you get that position?

14 A. Youth Intervention, as I was explaining to you
15 when we were trying to get the dates right, you remember,
16 I was saying that I worked up until 2002 I believe it was
17 and the mayor eliminated, his office eliminated Youth
18 Intervention. I had bumping rights, so I bumped into
19 that position.

A-104

20 Q. The mayor of Wilmington is James Baker, correct?

21 A. Mayor James M. Baker, that is correct, sir.

22 Q. Did you know Mr. Baker before you became a youth
23 intervention specialist?

24 A. I knew a little of Mr. Baker, yes, sir.



1 Q. Did you ever serve as Mr. Baker's driver in any
2 capacity?

3 A. No, sir. No, sir. In any capacity? I drove him
4 around with friends. I drove him around on several
5 occasions.

6 Q. At what point in time?

7 A. I would have to go back each year and think about
8 what point in time. I do know I drove him around on
9 several occasions.

10 Q. Were you driving him around as part of your
11 duties as either a youth intervention specialist or
12 executive director of the William Hicks Anderson
13 Community Center?

14 A. No, sir. As a friend.

15 Q. Was it, were you driving him around while he was
16 running for office or --

17 A. I did that as well, that's correct.

18 Q. Driving?

19 A. As a friend.

20 Q. The mayor you said was elected in 2001?

21 A. Yes. That is correct, sir.

22 Q. Were you driving him in 2001?

23 A. No, sir. He took office in 2001.

24 Q. You were driving him in 2000?



1 A. I drove him occasionally throughout our
2 friendship, so that was one of the times, yes, some of
3 that time.

4 Q. When is the first time you drove the mayor as a
5 friend for a political purpose?

6 A. I don't remember exactly, sir.

7 Q. Was it before you became a youth intervention
8 specialist?

9 A. No, sir.

10 Q. Was it during that time?

11 A. Yes, sir, but I don't remember the year.

12 Q. What were your responsibilities as a youth
13 intervention specialist?

14 A. Dealing with at promising youth. Some say at
15 risk, I like to say at promising.

16 Q. What do you mean when you said you dealt with at
17 promising youth?

18 A. We would go and advocate for them in the
19 community and in the schools, speak on their behalf and
20 in courts. When some had court cases, we would go.

21 Q. How many other youth intervention specialists
22 were there?

23 A. No more than five total.

A-106

24 Q. In that capacity what was the title of the person



1 that you reported to, your direct supervisor?

2 A. I was the supervisor.

3 Q. Did you report to anyone?

4 A. Romaine -- Jana Lane Brown and Romaine Alexander.

5 J-A-N-A, Lane, L-A-N-E, Brown, no relations. Romaine
6 Alexander.

7 Q. What was Ms. Brown's title at the time?

8 A. Director of Youth and Families at one point until
9 they eliminated the department.

10 Q. After they eliminated that department, did you
11 still report to her?

12 A. She became the deputy director of Parks and
13 Recreation where we were assigned.

14 Q. What was Mr. Alexander's title when you reported
15 to him as youth intervention specialist?

16 A. Director of Parks and Recreation, which he still
17 holds that position.

18 Q. At any time were the youth interventional
19 specialists part of the police department?

20 A. They were.

21 Q. At what period of time?

A-107

22 A. When I first got hired in 1994.

23 Q. Do you recall for what period of time the youth
24 intervention specialists were part of the police



1 department?

2 A. They were already in existence when I got there,
3 when I got hired. Again, I was hired in '94 under then
4 Mayor Sills. You are really asking me to stretch my
5 memory. I'm going to try to do the best that I can,
6 because I think you already know and you can help me out,
7 if you want to.

8 Q. Actually, I don't know.

9 A. I'm quite sure you do, but, anyway, 1994 to 1997
10 we were at the police department and then they sent us to
11 Parks and Recreation.

12 Q. Do you have any knowledge as to why in 1997 the
13 youth intervention specialists were reassigned from the
14 police department to the Parks and Recreation department?

15 A. Had to do, something with the budget I believe.

16 Q. Do you know Gilbert Howell?

17 A. I know him well, sir. He's my best friend -- one
18 of my best friends.

19 Will you do me a favor? What's your name,
20 sir?

21 Q. My name is Robert Vance.

A-108

22 A. Will you do me a favor and -- Mr. Howell spent 37
23 years, 32 years with the police department, he worked his
24 way up. Would you address him as Mr. Howell, he deserves



1 that, for me please? He's my friend and deserves that.

2 Q. I thought I called him Mr. Howell.

3 A. No. You said Gilbert Howell.

4 Q. That's his first name. I wanted to make sure you
5 know who I'm talking about.

6 A. Okay.

7 Q. You say that Mr. Howell is one of your best
8 friends?

9 A. That's correct, sir.

10 Q. Do you know James Stallings?

11 A. Yes, I do, sir.

12 Q. How long have you known James Stallings?

13 A. Since 1994. Knew of him before I came to the
14 police department in '94. He was a sergeant in '94. And
15 so '94 I got to know him.

16 Q. Would you describe Mr. Stallings as one of your
17 personal friends?

18 A. Yes.

19 Q. Do you know Jim Wright?

20 A. Yes. I know Mr. Wright.

A-109

21 Q. How long have you known Mr. Wright?

22 A. He too -- knew of him before I came to work for
23 the police department, but I got to know him as well in
24 1994. He too was a sergeant.



1 Q. Do you consider Mr. Wright to be one of your
2 personal friends?

3 A. No.

4 Q. A professional relation?

5 A. Yes.

6 Q. Do you know Eugene Brown?

7 A. Yes, I do, sir.

8 Q. Is Mr. Eugene Brown related to you?

9 A. Not at all, sir.

10 Q. How long have you known Eugene Brown?

11 A. Late '80s, early '90s.

12 Q. Would you consider Mr. Eugene Brown to be a
13 personal friend of yours?

14 A. Yes.

15 Q. At some point Mr. Eugene Brown worked for you,
16 correct?

17 A. Yes. I was his supervisor, that's correct.

18 Q. You were his supervisor?

19 A. That's correct. A-110

20 Q. For what period of time were you Mr. Eugene
21 Brown's supervisor?

22 A. Through my extension with William Hicks Anderson
23 Community Center, so approximately two years.

24 Q. The entire time that you were the executive



1 director, Mr. Eugene Brown was your subordinate, correct?

2 A. He was one of 32, that's correct.

3 Q. Do you know Andrea Horisak?

4 A. Who?

5 Q. Andrea Horisak.

6 A. No, I don't, sir. Not unless I see a face.

7 Q. Do you know Sharnette Handy?

8 A. Yes.

9 Q. How do you know Ms. Handy?

10 A. I was a board member for Jackson Street Boys Club
11 and she initially started, she initially volunteered
12 there and don't ask me what year because I really don't
13 remember. Then -- so that's how I met her. She
14 subsequently became a police officer.

15 Q. Did you know Sharnette Handy before you became a
16 youth intervention specialist?

17 A. That wasn't the name you just asked me.

18 Q. Handy? Sharnette Handy?

19 A. Yes.

20 Q. Did you know Sharnette Handy before you became a
21 youth intervention specialist?

22 A. Yes.

23 Q. Do you consider her to be a personal friend?

24 A. No.

A-111



1 Q. Do you know Tracey Hammond?

2 A. Yes.

3 Q. How do you know Tracey Hammond?

4 A. She was a former police officer.

5 Q. Did you know Ms. Hammond prior to becoming a
6 youth intervention specialist?

7 A. No.

8 Q. Do you consider her to be a personal friend?

9 A. No.

10 Q. Do you recall when you first met her?

11 A. When she became a police officer, I was a youth
12 intervention specialist.

13 Q. Do you know Debbie Tymes, now known as Debbie
14 Tymes Holden?

15 A. Yes.

16 Q. How long have you known Ms. Tymes Holden?

17 A. When she became a police officer.

18 Q. Did you know her prior to that?

19 A. No, sir.

20 Q. Do you consider her to be a personal friend?

21 A. No, sir.

22 Q. Do you know Elizabeth Ticknor?

23 A. No, sir.

A-112

24 Q. Do you know Eileen Target?



1 A. No, sir.

2 Q. Do you know Stacie Jimenez?

3 A. No, sir.

4 Q. Do you know Deborah Donohue?

5 A. Yes, I do.

6 Q. When did you first meet Ms. Donohue?

7 A. When I became a youth specialist I believe she
8 worked in the radio room at the Wilmington Police
9 Department. Or if not when I became a intervention
10 specialist, shortly thereafter.

11 Q. Do you consider her to be a personal friend?

12 A. No, sir.

13 Q. Do you recall an incident at the police academy
14 where you performed an inspection on the female recruits
15 at the police academy?

16 A. No, sir.

17 Q. Is it that you do not recall that incident or
18 that incident never happened?

19 A. That incident never happened. A-113

20 Q. You were aware that Sergeant Donohue contends
21 that on two occasions you summoned only the female
22 recruits at the police academy into the hallway and
23 performed an inspection of them? Are you aware that she
24 contends that you did that?



1 A. I heard just recently that she came up with that
2 fabrication of a lie. So, yes, it's a lie and I didn't
3 do it.

4 Q. As a youth intervention specialist, did you have
5 access to the police recruits?

6 A. No, sir.

7 Q. Was Mr. Stallings involved with the police
8 academy at any time when you were a youth intervention
9 specialist to your knowledge?

10 A. He was lieutenant, but I don't -- he was in HR,
11 but I don't recall what class they came out of that that
12 he oversaw. Captain Donohue, which is Sergeant Donohue's
13 brother, was the captain in charge of HR and I believe,
14 understanding what I heard, he was in charge of that
15 particular class and lieutenant at the time Stallings was
16 his subordinate.

17 Q. Are you familiar with an Officer Cummings?

18 A. Yes, I am.

19 Q. When you were a youth intervention specialist,
20 did Officer Cummings have any relationship to the police
21 academy?

22 A. I believe he did. And, again, at what class, you
23 know, they come out in class numbers, I don't recall. I
24 cannot recall unless we summons the records. But he was



1 at that time a sergeant in HR doing, assisting and
2 assigned to the training, Sergeant Cummings at that time,
3 who is now a captain.

4 Q. Do you recall summoning the female recruits at
5 the police academy into the hallway and telling them that
6 you were largely responsible for the number of female
7 recruits in the particular class that they were in?

8 A. No, sir.

9 Q. Do you believe that you at any time had any role
10 in increasing the number of female recruits in the police
11 department?

12 A. No, sir.

13 Q. Do you know an employee of the City of Wilmington
14 by the name of Jerri Cherry?

15 A. Yes, I do.

16 Q. How do you know Ms. Cherry?

17 A. When I was youth intervention specialist, it goes
18 back to that, during that time, she had a niece or
19 goddaughter or some relative that we did, gave service
20 to. So that's when I first met Ms. Cherry.

21 Q. Do you recall the niece or goddaughter or
22 relative who you gave service to?

23 A. Oh, no, sir.

A-115

24 Q. Are you aware of -- do you know whether this



1 niece or goddaughter worked in the parks department?

2 A. No. She was a minor when I first encountered
3 Mrs. Cherry.

4 Q. Was she -- how minor was she?

5 A. She was a juvenile. I work with juveniles as a
6 youth intervention specialist.

7 Q. Younger than 21 years old?

8 A. Mrs. Cherry's niece or goddaughter, whichever one
9 it was, she was a juvenile. So, yes, she was under 21.

10 Q. Do you know whether she was working for the city
11 as an intern in any capacity while you were a youth
12 intervention specialist?

13 A. No, she was not.

14 Q. Are you aware of any complaint made against you
15 by a relative of Ms. Cherry that you had sexually
16 harassed this woman or a woman?

17 A. I was made aware of that through the personnel
18 department.

19 Q. When were you made aware of the complaint?

20 A. When I was -- when I was executive director of
21 Hicks Anderson Community Center. So it had to be 2002 or
22 2003. I don't recall exactly what year.

23 Q. Who made you aware of the complaint?

24 A. Personnel department.

A-116



1 Q. Who in the personnel department?

2 A. Monica Gillespie I believe it was -- one of the
3 staff, but I believe it was Monica.

4 Q. What did Monica tell you?

5 A. That the allocations were made against me for
6 sexual harassment.

7 Q. What were the allegations that she told you were
8 made against you?

9 A. I don't remember.

10 Q. Did she ask you about the allegations?

11 A. Yes, she did.

12 Q. Did she tell you she was asking you about the
13 allegations in the context of investigating the
14 allegations?

15 A. Yes, she did.

16 Q. Did she say she had spoken to the woman who had
17 made the complaint against you?

18 A. Yes, she did.

19 Q. Did she tell you she had interviewed anybody else
20 in connection with investigating the allegations?

21 A. I don't recall that.

22 Q. What was the result of her investigation, if you
23 know?

24 A. I recall it being unfounded.

A-117



1 Q. How do you have a recollection of that?

2 A. How do I have a recollection of that? I just do.

3 Q. Were you given a memo from Ms. Gillespie --

4 A. Yes.

5 Q. Let me finish.

6 Were you given a memo from Ms. Gillespie
7 saying the complaint was investigated and it was found
8 not to be substantiated?

9 A. That is correct.

10 Q. Did you receive that memo while you were the
11 executive director of the Hicks Anderson Community
12 Center?

13 A. That is correct.

14 Q. Other than Officer Lynch, have any other
15 employees of the city made sexual harassment complaints
16 against you to your knowledge?

17 A. To my knowledge there's no other employee who has
18 lied on me, no.

19 Q. That was not my question. Other than Officer
20 Lynch, are you aware of whether any other employees of
21 the city have made sexual harassment complaints against
22 you?

A-118

23 A. To my knowledge, there has been no one else who
24 has made unsubstantiated comments or allegations against



1 me for sexual harassment.

2 Q. Let me ask you the question again. To your
3 knowledge, other than Officer Lynch, has any city
4 employee made a complaint against you that you sexually
5 harassed them?

6 A. To my knowledge there has been no employee other
7 than your client who has made false allegations against
8 me.

9 Q. Let me say this to you, under the Federal Rules
10 of Civil Procedure --

11 A. Yes, sir.

12 Q. -- I have up to 7 hours to depose you.

13 A. Okay. I have no place to go, but I'm answering
14 your question.

15 Q. No, you are not.

16 MR. MILI: He has.

17 MR. VANCE: No, he hasn't.

18 BY MR. VANCE:

A-119

19 Q. Your contention is that Officer Lynch made
20 unsubstantiated allegations. My question is regardless
21 of whether you believe the allegations were substantiated
22 or unsubstantiated, to your knowledge have any other
23 employees of the city made a sexual harassment complaint
24 against you? Very simple, yes or no?



1 A. As an officer of the court what answer do you
2 want me to give other than the one I just gave you?

3 Q. Yes or no. Other than Officer Lynch, has any
4 other employee of the city made a complaint of sexual
5 harassment against you? I don't care whether you believe
6 it was substantiated or unsubstantiated. My question is
7 whether you know of other complaints. We can get into
8 whether it was substantiated or unsubstantiated after you
9 tell me yes or no.

10 Do you understand the question?

11 A. As an officer of the court you want me to answer
12 the way you want to answer. I'm answering the way I feel
13 comfortable in answering.

14 Q. No. I want an answer to the question I put to
15 you. I understand that you believe that Officer Lynch's
16 complaint was fabricated. I understand that's what you
17 believe. I'm not getting into that. My question is very
18 simple: To your knowledge, has any other employee of the
19 city made a complaint against you that you sexually
20 harassed them? Either you are aware of it or not.

21 A. To my knowledge there has been no other
22 complaints of sexual harassment by anyone who has falsely
23 accused me of any sexual harassment.

A-120

24 Q. Don't you understand that your answer implies



1 that there may have been complaints by someone made
2 against you that were not false? I'm giving you the
3 opportunity to answer the simple question.

4 A. As an officer of the court --

5 MR. MILI: Move to strike your testimony.
6 You are not the deponent.

7 Q. That's true, I'm not the deponent. I'm not
8 trying to argue with you.

9 MR. MILI: I object to you repeating the
10 same question. I'm sorry it is not the answer you might
11 want to help your case.

12 Q. No. You are just not answering the question.
13 Mr. Brown, I understand your position regarding Officer
14 Lynch's complaint. But my question is very simple. It
15 is a very simple question. It has nothing to do with
16 whether you believe the complaint that you may be aware
17 of was fabricated, was made for political -- whatever.
18 That's not the issue that I'm getting at. It is a very
19 simple question.

20 Are you aware of any city employee having
21 made any complaint of sexual harassment against you other
22 than Officer Lynch and this other complaint you just
23 discussed that was found to be unsubstantiated? Are you
24 aware of any other?

A-121



1 A. To my knowledge there has been no other
2 allegations of sexual harassment allegedly made against
3 me falsely by anyone else other than your client, Officer
4 Lynch. As an officer of the court that's how I'm going
5 to answer the question. I'm not being disrespectful to
6 you, sir.

7 Q. I think you are.

8 A. No, sir. I've been very cooperative since we
9 started this --

10 Q. It is called a deposition?

11 A. I was trying to find the correct word, because I
12 was going to say something else. But I've been very
13 cooperative and very pleasant with you. I'm trying to be
14 that way.

15 Q. Okay.

16 A. I hope you can respect that, because I respect
17 you.

18 Q. Okay. All right. So, Mr. Brown, you are
19 familiar with the concept of sexual harassment, are you
20 not?

21 A. Yes, I am, sir.

A-122

22 Q. How would you define sexual harassment?

23 A. Sexual harassment is inappropriate behavior
24 towards an individual that is not warranted or not



1 accepted by that individual.

2 Q. The inappropriate behavior I take it must be of a
3 sexual nature in order to constitute sexual harassment?

4 A. No, sir.

5 Q. Is that what you believe?

6 A. No, sir. Verbal, it could be verbal. It can
7 come in all kinds of ways, sir. It can be verbal. It
8 can be physical.

9 Q. Give me an example of verbal, inappropriate
10 verbal behavior that you think make constitute sexual
11 harassment?

12 A. I don't have one at the top of my head right now.

13 Q. My question to you is the inappropriate verbal,
14 does the inappropriate verbal behavior have to have a
15 sexual connotation in order for it to constitute sexual
16 harassment?

17 A. It is my belief it does.

18 Q. Okay. The inappropriate physical behavior has to
19 have a sexual connotation in order for it to constitute
20 sexual harassment. Is that your belief?

21 A. It is my belief it does.

22 Q. Okay. So if you said to a female that maybe we
23 both can do you, do you believe that that is
24 inappropriate verbal behavior that would constitute



1 sexual harassment?

2 A. Are you asking the question in terms of saying
3 that I said that? Or are you asking me a question in
4 terms of the way you just described it, as a hypothetical
5 question?

6 Q. Did you not understand the question I asked you?

7 A. I understood that it could -- if I answer the way
8 you asked, it could certainly be misconstrued that I
9 agree to your question, so would you ask it again.

10 MR. VANCE: Would you read back the
11 question.

12 (The record was read back as requested.)

13 THE WITNESS: I don't know, because I would
14 never say that to a female.

15 BY MR. VANCE:

16 Q. Okay. So assuming you would never say that, do
17 you believe that statement would be inappropriate?

18 A. Please don't assume. I'll telling you I would
19 not say that to a female.

20 Q. Mr. Brown, would that statement in your view
21 constitute sexual harassment?

A-124

22 A. Yes, it would. It is a verbal statement.

23 Q. If you inquire of a female whether she was going
24 to wear a thong when she went to the beach, would that



1 inquiry in your view constitute sexual harassment?

2 A. If the individual -- if the conversation was a
3 part of the beach scenery, I don't know what people ask,
4 but I don't have any objections to asking an individual
5 what type of swim suit they are wearing if we are on the
6 beach and we are all together.

7 Q. Okay. If a person asks a female, if a male
8 person asks a female person out on a date repeatedly and
9 the female says no repeatedly and the male continues to
10 ask her out on a date, in your view does that constitute
11 inappropriate or behavior that's sexual harassment?

12 A. In my view no, because some people don't get the
13 word no. Some people don't understand the word no. Some
14 people go beyond that limitation or that line that is
15 drawn. Continuously can be, I guess they continuously
16 seek after what they want until they get the answer yes.

17 I don't know if I answered that right, but
18 that's the way I feel about it.

19 Q. If a male kisses a female without her consent, in
20 your view does that constitute sexual harassment?

21 A. Of course. I would think so.

22 Q. If a male hugs a female without her consent, in
23 your view would that constitute sexual harassment?

24 A. No.

A-125



1 Q. Why not?

2 A. It all depends on the circumstances and the
3 situation and the environment.

4 Q. Give me an example.

5 A. Well, in church, you walk up to someone in church
6 and you hug a sister or a sister hugs the brother. Is
7 that considered sexual harassment? So that's my example.

8 Q. If a male asks a female to go on a vacation with
9 her and the female says no, is that conversation sexual
10 harassment in your view?

11 A. No.

12 Q. If a man asks a woman to arrange a date for him
13 with the woman's friend, in your view does that
14 constitute sexual harassment?

15 A. Nope. A-126

16 Q. If a man jokes with a woman in a suggestive
17 manner and the woman tells him that she doesn't
18 appreciate those kinds of jokes, but the man continues to
19 joke with her in that manner, do you believe that
20 constitutes sexual harassment?

21 A. No. I believe you can consider that as being
22 disrespectful to the individual.

23 Q. Now, since you have been a city employee have you
24 received any kind of training on the issue of sexual



1 harassment?

2 A. Yes.

3 Q. Can you tell me about that training?

4 A. New hires, whenever -- as far as I remember, when
5 you are a new hire you go through, personnel goes through
6 a lot of things that is in the personnel code and one of
7 them is sexual harassment.

8 Q. When you were newly hired by the city in 1994 did
9 you receive training on any kind of sexual harassment
10 policy or procedure?

11 A. Yes.

12 Q. Can you tell me about that training, if you
13 remember?

14 A. I don't remember.

15 Q. Did you receive a copy of the city's personnel
16 manual --

17 A. Yes.

18 Q. -- when you were hired in 1994?

19 A. That's correct.

20 Q. Did that personnel manual have a harassment or
21 sexual harassment policy in it?

22 A. Yes, it did.

23 Q. Did you read it?

24 A. Yes, I did.

A-127



1 Q. Did I understand it?

2 A. Yes, I did.

3 Q. Do you understand what that policy, the conduct
4 that that policy prohibited?

5 A. Yes, I did.

6 Q. Since April 1994 did you receive any other
7 training on sexual harassment or the city's sexual
8 harassment policy?

9 A. Yes.

10 Q. Do you recall when?

11 A. You are not going to like this answer, but I'm
12 going to tell you. Since your client made false
13 accusations against me the first time about the
14 allegations of sexual harassment and it was investigated
15 by the personnel department and they wrote back with
16 their recommendation, I had to go through training on
17 sexual harassment. I believe that was in 2003 or 2004.

18 Q. Did you object to going through that training?

19 A. No.

20 Q. Did you think you needed the training?

A-128

21 A. No.

22 Q. You had no training between 1994 and some time in
23 2004? Is that your --

24 A. There was some other training, but I don't recall



1 what they were. We have had trainings.

2 MR. VANCE: Can you mark this as Brown 1.

3 (Brown Deposition Exhibit No. 1 marked for
4 identification.)

5 BY MR. VANCE:

6 Q. Mr. Brown, the document in front of you is marked
7 Brown 1. It is entitled "Policy 101.1 Harassment Free
8 Work Environment." It has Bates numbers in the lower
9 right-hand corner, 72 through 77.

10 A. That's correct, sir.

11 Q. Okay. Have you ever seen this policy before?

12 A. Yes. It is part of the personnel policy manual.

13 Q. You were familiar with this policy and what it
14 prohibited as of January 1, 2004, correct?

15 A. January 1.

16 Q. 2004.

17 A. Yes.

18 Q. Prior to that?

19 A. In 1994, yes.

A-129

20 Q. Now, when you were the executive director of the
21 Hicks Anderson Center, can you tell me what your duties
22 were?

23 A. My duties were to oversee the day to day
24 operations of the city's only funded community center,



1 where I supervised approximately 32 full- and part-time
2 employees, and in the summertime ran summer employment
3 with youth, oversaw a budget, oversaw programs. And
4 basically that was the gist of my duties there.

5 Q. Did you have a job description?

6 A. Yes.

7 Q. It was in writing?

8 A. Yes.

9 Q. Was that job description given to you when you
10 started the job?

11 A. Yes.

12 Q. Who gave the job description to you?

13 A. Personnel department.

14 Q. Is that job description an official city document
15 to your knowledge?

16 A. Yes, it should be.

17 Q. Are you married, Mr. Brown?

18 A. Yes, I am.

19 Q. How long have you been married?

20 A. Eighteen years, 21 including the dating -- 18
21 years married. I add the three years we were dating, so
22 21 years with my wife.

23 Q. Do you have any children?

24 A. Yes.

A-130



1 Q. What are their genders?

2 A. Two males, one female.

3 Q. When you were the executive director of the Hicks
4 Anderson Center did you have assigned work hours?

5 A. Yes.

6 Q. What were your assigned work hours?

7 A. Per the job description, 9:00 to 5:00.

8 Q. Were you paid a salary or were you paid by the
9 hour?

10 A. Salary.

11 Q. If you worked beyond 5:00 p.m. were you paid
12 overtime?

13 A. No.

14 Q. Did you get comp time if you worked past 5:00
15 p.m. or more than 40 hours a week?

16 A. They didn't like to give comp time, so I didn't
17 really do it.

18 Q. Did the city offer comp time?

19 A. No.

A-131

20 Q. Were you ever required as part of your duties as
21 the executive director of the Hicks Anderson Center to
22 attend community meetings?

23 A. Yes.

24 Q. Were you ever required to attend those meetings



1 after 5:00?

2 A. By -- yes, per directive from the director of
3 Parks and Rec, there would be occasions when he would
4 send me.

5 Q. If the director would send you to a meeting after
6 5:00, how would he communicate that to you?

7 A. Call me up and tell me he can't make a meeting,
8 would I go.

9 Q. Did you receive a schedule from the director of
10 meetings that he wanted you to attend on a weekly basis
11 or monthly basis?

12 A. No, sir.

13 Q. When you went to these meetings after 5:00 --

14 A. They weren't all after 5:00.

15 Q. I'm talking about the ones that were after 5:00,
16 were you able to come in to work late for the period of
17 time that you spent at the meeting the night before?

18 A. At times we would discuss that.

19 Q. Were you able to do that?

A-132

20 A. At times we would, the director and I would work
21 out something.

22 Q. When you went to community meetings after 5:00 at
23 the direction of the director of Parks and Recreation,
24 did you communicate that to the people who attended the



1 meeting?

2 A. Yes, I would. I would always tell them I was
3 there representing the director.

4 Q. Did you ever attend community meetings after 5:00
5 in your capacity as the executive director of the Hicks
6 Anderson Center, not at the invitation of the or the
7 direction of the Parks and Recreation director?

8 A. Yes, through invites from community groups.

9 Q. Was it your understanding that those community
10 organizations were inviting you because you were the
11 executive director of the Hicks Anderson Center?

12 A. No. Not all the time.

13 Q. What would be the difference or the distinction?

14 A. I'm quite sure you have heard about my background
15 and reputation. I'm --

A-133

16 Q. No, I haven't.

17 A. I'm going to tell you. I'm a community activist
18 and I advocate for youth and seniors. And I advocate for
19 justice and for what's right. I always advocated, so
20 there would be a lot of times that I show up for meetings
21 and I say a lot of times that I show up for meetings
22 after 5:00 clock when I got off from work on my own
23 having nothing to do with the city.

24 If I showed up and I was not assigned to



1 show up by the director or I wasn't invited by a
2 community organization and I might have heard about a
3 meeting, I might show up and just put my head in the door
4 and find out what the discussions is all about. Or I
5 might already know what the discussion is going to be and
6 might want to show up and give my own.

7 Q. In those occasions would you come into the
8 meeting and say, I'm Mr. Brown -- or I guess people knew
9 you -- but I'm not here as the executive director of
10 Hicks Anderson, I'm just here as Mike Brown, private
11 citizen?

12 A. Basically those were some of the times that I had
13 to say that, yes, because I couldn't answer for the city.
14 There would be conversations regarding situations about
15 the city and they would look my direction or my way. I
16 said I'm not here representing the city, I'm here
17 representing me, not the city. So I wouldn't make
18 decisions for the city is what I was telling them.

19 Q. I'm not asking you basically. I'm asking you
20 when you went to community meetings after 5:00 where you
21 believe you were attending in your capacity as a private
22 citizen, when you went to these meetings did you announce
23 to the people at the meeting, I'm here just on my own,
24 I'm not here representing the city?

A-134



1 A. Based on, if I was identified there and asked
2 certain questions that pertain to city government, I
3 would tell them I'm not there as a city employee. I'm
4 there as an advocate, I'm there just to hear and listen.
5 Because if I told them that, they would expect me to give
6 them some sort of remedy to their problem and I can't
7 represent the city and speak for the city unless I was
8 told to.

9 Q. If you were not asked a question in that type of
10 meeting where you were attending as private citizen,
11 would you still nonetheless say I'm not here representing
12 the city, I'm just here on my own?

13 A. But again, based on if I was identified as Mike
14 Brown from Hicks Anderson Community Center and the issues
15 was about youth or the issues was about crime, in the
16 community, whatever issue was dealing with and I sat
17 there and they asked me a question pertaining to that, I
18 could not answer to them as an employee of the city,
19 because I wasn't there representing the city. I'd be
20 there representing me as a private citizen and advocating
21 for what was right and what was wrong in the community at
22 that time.

A-135

23 Q. So would it be fair to say, then, at community
24 meetings that you attended after 5:00 p.m. where you were



1 not directed to attend by the Parks and Recreation
2 director or you were not otherwise attending in your
3 official capacity as the executive director of the Hicks
4 Anderson Center, you would not disclose to the attendees
5 that you were appearing as a private citizen unless
6 someone asked you something that would require you to
7 make that distinction? Would that be correct?

8 MR. MILI: Object to form.

9 Q. You can answer the question.

A-136

10 A. For the third time, if there's a conversation
11 pertaining to something in the community, and you are
12 right when you open the statement and questions about you
13 guessed everybody would know who I was, you are correct.
14 Everybody, majority, 99 percent of them know who Mike
15 Brown was. So when there was an issue about youth,
16 issues about crime, issues about police, issues about
17 anything pertaining to an answer that I had, that they
18 thought that I was there representing them, representing
19 the city on, I would make clear to them that I was not
20 there -- it was after 5:00, I was on my own time. So I
21 was representing me as an advocate to the community.

22 Q. In November 2004 when you attended a WCCNPAC
23 meeting which was concerned with youth or crime or police
24 issues, did you disclose to the people attending that



1 meeting that you were attending that meeting as a private
2 citizen and not a representative of the city?

3 A. Didn't disclose anything, because no one asked
4 me. No one had a direct conversation to me or direct
5 question to me pertaining to a city issue that I would
6 have to respond to. There were certain issues discussed
7 there, but it wasn't that I was representing the city to
8 give them a definitive answer or the answer that they
9 were looking to hear for the city to give.

10 Q. Everybody there knew you, right, because
11 everybody knows you?

12 A. Well, I won't say everybody --

13 Q. 99 percent?

14 A. Yeah. Even you know me now, sir.

15 Q. Not really, but --

16 A. You will get to know me.

17 Q. Probably not.

18 So I take that answer to be, no, you did not
19 disclose to the people at the meeting in November 2004 at
20 the WCCNPAC organization that you were appearing as a
21 private citizen. Is that correct?

22 A. The way I explained it to you is the way I said
23 it happened. No, I did not introduce myself as the
24 executive director of William Hicks Anderson Center.



1 Q. You did not introduce yourself as Mike Brown
2 private citizen tonight?

3 A. I did not do that, either.

4 Q. Okay. As the executive director of the Hicks
5 Anderson Community Center did you have an assigned
6 jurisdiction of the city that you were responsible for?

7 A. Would you say that again for me?

8 Q. As executive director of the Hicks Anderson
9 Center, did you have a particular jurisdiction of the
10 city that you were responsible for?

11 A. No. I was responsible for the only public
12 facility for, that paid tax -- was paid by tax dollars at
13 the William Hicks Anderson Community Center. But because
14 my job description dealt with the youth, we dealt with
15 youth throughout the city, but it was a city entity.

16 Q. All right. You are aware I am certain that
17 Officer Lynch filed a complaint against you alleging that
18 in June of 2004 you engaged in conduct that she contended
19 constituted sexual harassment, correct?

20 A. I am aware that she, Officer Lynch, fabricated --

21 Q. Go ahead.

22 A. -- statements stating, being accusatory that I
23 did some sexual harassment to her, which is strictly flat
24 out a lie.



A-138

1 Q. All right. Why don't you tell me what happened
2 on the particular day that gave rise to the complaint?

3 A. Ask me what you want to know.

4 Q. All right. We can do it that way if you want.

5 A. Yes.

6 Q. Okay. Officer Lynch says that she was assigned
7 to weed and seed in June 2004. Is that right?

8 A. That is correct.

9 Q. Did you know that to be the fact?

10 A. She was an officer over in that area. I assume
11 that's what she was.

12 Q. Why did you assume that?

13 A. Because she was there every day in that capacity
14 as the assigned officer, one of three assigned officers
15 in the area, so I just assumed that she was one of the
16 WCCNPAC officers.

17 Q. What do you mean "there"? Where is "there"?

18 A. Weed and seed area, the specific area of weed and
19 seed.

20 Q. In June 2004 did you tell some of the police
21 officers that you were going to Miami for the weekend?

22 A. No, sir.

23 Q. You never said that?

24 A. No, sir.

A-139



1 Q. Did you learn that Officer Lynch was going to go
2 to Miami for the Memorial Day Weekend?

3 A. She shared that with me in a conversation that we
4 had standing in the lobby of Hicks Anderson.

5 Q. Just you and her?

6 A. In the lobby, yes, it was.

7 Q. Did anybody else hear the conversation between
8 the two of you?

9 A. No, sir.

10 Q. Okay. On that particular occasion did you greet
11 Officer Lynch with a hug?

12 A. I greeted Officer Lynch with an extended hand and
13 a -- for the record, I am demonstrating, I extended my
14 hand to her, embraced her in a greet where it would be
15 construed as a greeting that men and women do when they
16 see each other, particularly those of African American
17 descent.

18 So I confused you now?

19 Q. I'll leave that alone.

20 A. When we go to court I will ask the judge to let
21 me demonstrate exactly what I mean by that.

22 MR. MILI: Just answer his questions,
23 please.

24 Q. Had you greeted Officer Lynch in that fashion



1 prior to that day?

2 A. Yes.

3 Q. On how many occasions?

4 A. I don't recall.

5 Q. More than 10?

6 A. I don't recall.

7 Q. Was that your normal greeting with Officer Lynch?

8 A. It is my normal greeting with everybody.

9 Q. Okay. Let me ask the question again. Was that
10 your normal greeting with Officer Lynch?

11 A. It had become my greeting with her when she was
12 along with her partners when I saw them.

13 Q. When did it start becoming your normal greeting
14 with Officer Lynch and her partners whenever you saw
15 them?

16 A. As I would see them when they came in the
17 building I would greet them that way.

18 Q. Beginning in July of 2002?

19 A. I don't know when she was assigned over there.

20 Q. Okay. All right. So that particular day after
21 you greeted Officer Lynch with a hug --

22 A. Excuse me. It was not a hug as you would --

23 Q. I stand corrected. After you greeted Officer
24 Lynch in the manner that you are going to demonstrate to



1 the jury at trial, you asked Officer Lynch to go to your
2 office, into your office, correct?

3 A. I was summoned to a phone call by the office
4 staff and I told her she can come in the office if she
5 wants. So I went to the office to answer a phone call.

6 Q. You had a round table in your office?

7 A. Yes.

8 Q. Officer Lynch had a seat at the table?

9 A. That is correct.

10 Q. While she was seated there you began to talk to
11 her about her trip to Miami, correct?

12 A. No. That's not correct.

13 Q. No? Did you ask Officer Lynch if you could go to
14 Miami with her?

15 A. No.

16 Q. You did not?

A-142

17 A. No, I did not.

18 Q. Do you recall Officer Lynch telling you that the
19 trip to Miami was a women's trip? That she was going
20 with a girlfriend?

21 A. I remember the conversation about a girlfriend,
22 but I don't specifically remember that about a women's
23 trip.

24 Q. Did you ask Officer Lynch to, if she would



1 introduce you to her girlfriend that was going on the
2 trip with her?

3 A. Yes.

4 Q. Officer Lynch told you no, correct?

5 A. No.

6 Q. She didn't tell you no?

7 A. No.

8 Q. Did she say yes?

9 A. No. But she didn't tell me no, either.

10 Q. She didn't say anything?

11 A. No.

12 Q. Do you recall Officer Lynch telling you that her
13 girlfriend does not like married men and you are married?

14 A. Yes.

15 Q. Do you have any idea why she came out with that
16 statement, why she said that to you?

17 A. Because I made the statement -- I'm quite sure
18 you got it there -- you ought to introduce me to your
19 girlfriend.

20 Q. Well, that's not what you said, is it?

21 A. That's the beginning of what I said and then as
22 the conversation progressed I said you ought to hook the
23 brother up.

24 Q. The brother being you?

A-143



1 A. Being me, that's correct.

2 Q. Hook the brother up with who?

3 A. Her girlfriend. That's what we were talking
4 about.

5 Q. Did Officer Lynch tell you, no, she was not going
6 to hook you up with her girlfriend?

7 A. No. I don't recall that.

8 Q. Did she respond at all?

9 A. Yes. She said she would talk to her girlfriend.

10 Q. She was contemplating hooking you up with her
11 girlfriend?

12 A. Her comment was I will talk to my girlfriend, but
13 she does not date married men.

14 Q. Do you recall asking Officer Lynch what kind of
15 bathing suit she would be wearing while in Miami?

16 A. No, sir.

17 Q. You don't recall asking her that?

18 A. No, sir.

19 Q. You don't recall her telling you that she was
20 going to wear a regular bathing suit?

21 A. No, sir.

22 Q. You don't recall -- is it that you don't recall
23 this or you did not ask her?

24 A. I don't recall asking her.

A-144



1 Q. Well, that's two different things. Is your
2 testimony that you did not ask Officer Lynch what kind of
3 bathing suit that she was going to be wearing while in
4 Miami or you don't recall whether you asked her what kind
5 of bathing suit she was going to be wearing in Miami?

6 A. In the beginning of your question, sir, you said
7 do I recall.

8 Q. I know, but this is a new question. So -- did
9 you ask Officer Lynch what kind of bathing suit she was
10 going to be wearing in Miami?

11 A. No, sir.

12 Q. Do you recall Officer Lynch telling you that she
13 was going to be wearing a regular bathing suit in Miami?

14 A. No, sir.

15 Q. Did you ask Officer Lynch whether she was going
16 to be wearing a thong?

17 A. No, sir.

18 Q. Did Officer Lynch attempt to leave the office and
19 you asked her not to leave when she was going to leave?

20 A. No, sir.

21 Q. Did Gene Brown come into the doorway of your
22 office at any time while Officer Lynch was there?

23 A. Yes, sir. He stuck his head in the door.

24 Q. He asked for keys. Is that right?

A-145



1 A. He asked for something. I don't recall exactly
2 what it was.

3 Q. Did you tell Gene Brown not to interrupt you
4 while you were talking to this fine police officer?

5 A. No, sir.

6 Q. You didn't say that?

7 A. No, sir.

8 Q. Did Mr. Gene Brown tell you that he would kick
9 your ass?

10 A. Say again.

11 Q. Did Gene tell you that he would kick your ass in
12 a joking manner?

13 A. No, sir.

14 Q. Did you tell or say to Officer Lynch and Gene
15 that he wouldn't do that with Officer Lynch sitting
16 there?

17 A. To go back to your original question, he never
18 made the statement in the first place.

19 Q. Did you give Gene the keys that he inquired
20 about?

21 A. Again, I don't recall what it was that he asked
22 for, as I stated earlier.

A-146

23 Q. Did you and Officer Lynch talk about certain
24 issues regarding the spring break basketball tournament?



1 A. Yes. Upcoming federal funded, federal sponsored
2 basketball game, yes.

3 Q. Did Mr. Brown come back a few minutes later and
4 ask you another question?

5 A. I don't recall him coming back in the office for
6 me to ask him another question.

7 Q. Did you and Gene Brown start joking with each
8 other and Gene Brown cut off the lights and tells you
9 that he was going to come in the room and beat your ass
10 in the dark?

11 A. I don't recall that, so the answer is no.

12 Q. Did you tell Gene Brown that if he came into the
13 room with Officer Lynch there, that Officer Lynch could
14 do both of you?

15 A. No, sir.

16 Q. Were the lights ever off at any point when you
17 were in the office with Officer Lynch that day?

18 A. No, sir. And neither door was even closed.

19 Q. I didn't really ask that, but if that's what you
20 would like to contribute.

21 At some point Officer Lynch left. Do you
22 recall?

23 A. Yes, sir.

A-147

24 Q. Did you say anything to her when she left?



1 A. If anything, see you later, be safe.

2 Q. All right. You were advised a few weeks after
3 that point that Officer Lynch had made a harassment
4 complaint against you. Do you recall that?

5 A. No, sir. Not a few weeks later. A couple months
6 later.

7 Q. Couple months later?

8 A. Yes, sir.

9 Q. Are you sure about that?

10 A. It wasn't a few weeks later, so, no, I'm not sure
11 about that, but it wasn't a few weeks later. But it all
12 depends on what you call a few weeks.

13 Q. What do you call a few weeks?

14 A. You are the one that made the statement.

15 Q. But you made the answer.

16 A. I'm not going to argue with you.

17 Q. That's my question: What do you call a few
18 weeks?

19 A. Mine is different than yours, so...

20 Q. I want to know what yours is.

21 A. A month, four weeks.

22 Q. Okay.

23 A. What is yours?

24 Q. I'm not being deposed here, Sir.

A-148



1 MR. VANCE: Could you mark that as Brown 2.

2 (Brown Deposition Exhibit No. 2 marked for
3 identification.)

4 BY MR. VANCE:

5 Q. Mr. Brown, in front of you is a document marked
6 Brown 2, which is a letter, dated June 17, 2004, from
7 Monica Gonzalez Gillespie, to you, regarding a complaint.
8 It has a Bates number of 7 in the lower right-hand
9 corner. Could you read this letter?

10 A. Did I read it?

11 Q. Could you read it to yourself right now?

12 A. I did.

13 Q. Do you recall receiving this letter?

14 A. Yes.

15 Q. Dated June 17, 2004, correct?

16 A. That is correct.

17 Q. That's not a month after the beginning of June,
18 is it?

19 A. Well, in my recollection of this whole
20 fabrication that your client has made, I thought that at
21 some point this happened back in -- the allegations were
22 made in June, but this had to happen back in the last of
23 April, early May. That's my thought, so that's why I
24 used the terms of more than a few weeks.

A-149



1 Q. All right.

2 A. Understandable, isn't it?

3 Q. Do you want to take your break?

4 A. Understandable, isn't it?

5 Q. Do you want to take your break?

6 THE WITNESS: Yes.

7 (Recess taken.)

8 BY MR. VANCE:

9 Q. All right. Mr. Brown, do you recall being
10 contacted by someone from the personnel director's office
11 to schedule an appointment to meet with you about Officer
12 Lynch's complaint?

13 A. Yes.

14 Q. Do you recall that you were scheduled to meet
15 with Monica Gonzalez Gillespie around the end of June
16 2004?

17 A. I don't recall exactly when, sir, but, yes, I
18 recall having to meet with her.

19 Q. Did she cancel an appointment with you?

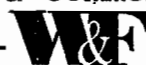
20 A. I don't recall that.

21 Q. Did you ever make any comments to Officer Lynch
22 about her being too pretty to be a cop?

23 A. No, sir.

A-150

24 Q. Did you ever make a comment to Officer Lynch



1 about her pants fitting nice?

2 A. No, sir.

3 Q. Did you ever tell Officer Lynch that you wanted
4 to get to know her?

5 A. No, sir.

6 Q. Did Officer Lynch ever tell you that she had a
7 boyfriend?

8 A. I don't think we got that personal, so I don't
9 recall that, sir.

10 Q. After the discussion that you had with Officer
11 Lynch about the spring break basketball tournament, was
12 there a period of time when she was not visiting the
13 center? She stopped visiting the center?

14 A. The weed and seed officers, which she was part
15 of, didn't visit on a regular basis anyway. So --

16 Q. I don't know, does that mean yes or no or what?

17 A. I don't know how to answer that question, because
18 her assignment was the weed and seed area and she didn't
19 come in there every day anyway, "she" meaning Officer
20 Lynch.

21 Q. Was it your understanding that Officer Lynch's
22 assignment was to come by the Hicks Anderson Center every
23 day as parts of her duties?

24 A. No, sir. It wasn't my understanding.

A-151



1 Q. What was your understanding as to how frequently
2 she was supposed to stop by the Hicks Anderson Center?

3 A. There was no understanding as far as I remember.

4 Q. So then why are you complaining that they never
5 came by the center? You had no understanding about how
6 frequently they were supposed to come by the center.

7 A. Because Hicks Anderson was a part of the weed and
8 seed area and -- because Hicks Anderson was part of the
9 weed and seed area.

10 Q. Was it your hope that the officers would come by
11 every day?

12 A. It was my hope, yes, that officers from the weed
13 and seed area would come by every day.

14 Q. They were not coming by every day?

15 A. No.

16 Q. How frequently were they coming by?

17 A. I don't recall.

18 Q. Was it less than once a week?

19 A. I don't recall.

20 Q. You don't recall at all?

21 A. I don't recall.

22 Q. Do you recall an interview with Monica Gillespie
23 about Officer Lynch's complaint?

24 A. Yes. Vaguely, but yes.

A-152



1 Q. Who was present in that interview, if you
2 remember?

3 A. I really don't recall.

4 I'm going to have to go and pick up my
5 granddaughter and come back in about 15 minutes. I'm not
6 going to leave my granddaughter out in the rain, so I'll
7 come back, if you don't mind.

8 MR. MILI: How much more do you have to go?
9 If everybody could stay focused and move on.

10 MR. VANCE: Certainly more than 15 minutes
11 worth.

12 MR. MILI: Can we continue to Monday or
13 another day? I don't want to be here all night.

14 MR. VANCE: Off the record.

15 (Discussion off the record.)

16 MR. VANCE: The deposition is going to be
17 adjourned right now, because the witness has some
18 personal obligations and needs to take care of them, and
19 we will reconvene the deposition at sometime during the
20 week of October 29th. That's it.

21 (The deposition adjourned at 3:40 p.m.)
22
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A-153



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I N D E X

DEPONENT: MICHAEL BROWN

PAGE

Examination by Mr. Vance

2

E X H I B I T S

BROWN'S DEPOSITION EXHIBITS

MARKED

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233
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A-154



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A-155



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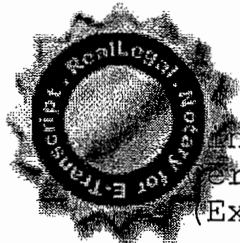
1 State of Delaware)
2)
3 New Castle County)
4

5
6 CERTIFICATE OF REPORTER

7 I, Vincent J. Bailey, Registered Professional
8 Reporter and Notary Public, do hereby certify that there
9 came before me on Friday, October 26, 2007, the deponent
10 herein, MICHAEL BROWN, who was duly sworn by me and
11 thereafter examined by counsel for the respective
12 parties; that the questions asked of said deponent and
13 the answers given were taken down by me in Stenotype
14 notes and thereafter transcribed by use of computer-aided
15 transcription and computer printer under my direction.

16 I further certify that the foregoing is a true
17 and correct transcript of the testimony given at said
18 examination of said witness.

19 I further certify that I am not counsel,
20 attorney, or relative of either party, or otherwise
21 interested in the event of this suit.



22 Vincent J. Bailey, RPR
23 Certification No. 171-RPR
24 (Expires January 31, 2008)

25 DATED: 10-31-07

26 A-156



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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FRAY LYNCH,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	06-351 JJF
CITY OF WILMINGTON,)	
)	
Defendant.)	

Volume 2

Continued deposition of MICHAEL BROWN taken pursuant to notice at the offices of City of Wilmington Law Department, City/County Building, 800 N. French Street, 9th Floor, Wilmington, Delaware, beginning at 10:00 a.m. on Tuesday, October 30, 2007, before Anne L. Adams, Registered Professional Reporter and Notary Public.

APPEARANCES:

ROBERT T. VANCE, JR., ESQ.
LAW OFFICES OF ROBERT T. VANCE, JR.
100 South Broad Street - Suite 1530
Philadelphia, Pennsylvania 19110
for the Plaintiff,

ALEX J. MILI, JR., ESQ.
ASSISTANT CITY SOLICITOR
City of Wilmington Law Department
800 North French Street
Wilmington, Delaware 19801
for the Defendant.

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COPY

1 MICHAEL BROWN,
2 the witness herein, having first been
3 duly sworn on oath, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MR. VANCE:

7 Q. Good morning, Mr. Brown. We are continuing the
8 deposition from the 26th. I think where we left off, at
9 least one of the points that we left off at is that you
10 recall being interviewed by Monica Gillespie Gonzalez in
11 connection with the June, 2004, complaint that Officer
12 Lynch filed against you; is that right?

13 A. Yes, I recall being interviewed by
14 Miss Gillespie.

15 MR. VANCE: Can you mark that as Brown 3?

16 (Brown Exhibit No. 3, Letter from Monica
17 Gonzalez-Gillespie Dated 7/26/04, was marked for
18 identification.)

19 BY MR. VANCE: A-158

20 Q. Mr. Brown, Brown 3 is a letter dated July 26th,
21 2004, from Monica Gonzalez-Gillespie to you regarding an
22 interview that had been scheduled in her office for
23 July 26, 2004, at 10:30 a.m. that you canceled. Do you
24 recall receiving this letter?



1 A. No, I don't recall receiving it. But I do
2 recall a meeting, having scheduled a meeting. But I
3 believe I received it. But I don't recall receiving it.
4 Let me put it that way.

5 Q. At the bottom of the letter, there is a mention
6 that you had legal counsel. Do you see that?

7 A. Yes.

8 Q. You stated that you had legal counsel.

9 A. Yes.

10 Q. When did you obtain an attorney to represent you
11 in connection with the complaint against you made by
12 Officer Lynch?

13 A. This is not a -- I did not specifically attain
14 the attorney for the specific reason. But I brought him
15 in, asked him to come with me at the time for this
16 meeting.

17 Q. To the interview with Miss Gonzalez-Gillespie?

18 A. That is correct.

19 Q. Who is that attorney?

20 A. Victor Battaglia, Sr.

21 Q. Did he attend the meetings you had with Monica
22 Gonzalez-Gillespie?

23 A. Yes, he did.

A-159

24 Q. Did he participate in the interview or was he



1 just an observer?

2 A. Just an observer.

3 MR. MILI: Before you continue with this
4 line of questioning, the deponent needs to be reminded
5 that he has an attorney/client privilege with
6 Mr. Battaglia that he is not obligated to waive at this
7 time.

8 THE WITNESS: Thank you.

9 BY MR. VANCE:

10 Q. Understanding that you don't have to waive your
11 privilege, can you tell me why you retained
12 Mr. Battaglia or why you asked Mr. Battaglia to
13 accompany you to the interview with Monica
14 Gonzalez-Gillespie?

15 MR. MILI: I'm going to be object to that
16 question. You are getting into the heart of whatever he
17 discussed with his attorney. That's clearly violating
18 attorney/client privilege.

19 BY MR. VANCE: A-160

20 Q. You can waive it if you want. It's up to you.

21 A. The attorney for the City has spoken for me.

22 Q. Meaning that you are not going to answer that
23 question because you think it intrudes upon the
24 attorney/client privilege; is that right?



1 A. That is correct.

2 Q. Did you learn about the Weed N' Seed Program
3 other than in your capacity as the executive director of
4 the Hicks Anderson Community Center?

5 A. Ask that again, please.

6 Q. Did you learn about the Weed N' Seed Program
7 other than in your capacity as the executive director of
8 the Hicks Anderson Community Center?

9 A. No, sir.

10 Q. Now, during your interview with Monica
11 Gonzalez-Gillespie, did you admit to any of the
12 statements that Officer Lynch said that you had made to
13 her related to the June, 2004, complaint?

14 A. Hook the brother up was the statement that I
15 made that I admit making.

16 Q. And you denied all of the other statements?

17 A. That is correct.

18 Q. Did you tell Miss Gonzalez-Gillespie that you
19 had not asked Officer Lynch to bring back pictures from
20 her vacation to Miami?

21 A. I don't recall.

22 Q. You don't recall whether you asked her to bring
23 back pictures or not?

24 A. I don't recall that conversation.

A-161



1 Q. Were you planning a vacation at some point in
2 2004 to travel to Miami?

3 A. No, sir.

4 Q. Did you complain to anyone who was a
5 representative of the United States Government related
6 to the Weed N' Seed Program and whether officers were
7 being deployed appropriately?

8 A. Yes, sir.

9 Q. Who did you complain to?

10 A. U.S. Attorney Colm Connolly, a couple of his
11 designees. I don't remember their names.

12 Q. You complained to the U.S. Attorney --

13 A. Personally at a meeting.

14 Q. Who is the U.S. Attorney?

15 A. Colm, C-O-L-M, Connolly.

16 Q. When did you complain to -- is that a man?

17 A. Yes, it is.

18 Q. When did you complain to Colm Connolly?

19 A. I don't remember the exact date and time, sir.

20 Q. How much earlier than the incident with Officer
21 Lynch did you complain to Mr. Connolly about the Weed N'
22 Seed Program?

23 A. I don't remember.

A-162

24 Q. Did you put any of your complaints to



1 Mr. Connolly or any of his designees in writing?

2 A. No, sir.

3 Q. These were all verbal complaints?

4 A. Yes, sir.

5 Q. Do you know whether they made any kind of
6 written memorial of your complaints about the Weed N'
7 Seed Program?

8 A. Each time that we discussed this was at our
9 monthly meetings with Weed N' Seed. So there was
10 someone there taking notes. I'm quite sure there is
11 notes out there somewhere.

12 Q. Where were the monthly meetings held?

13 A. At the U.S. Attorney's office in the conference
14 room.

15 Q. When did these monthly meetings begin?

16 A. They had been in existence. I just, when I took
17 over as executive director, that was part of the
18 meetings that I attended as executive director. Because
19 Weed N' Seed, the community set right in the middle of
20 Weed N' Seed. And they furnished some of the funds for
21 programs for the community center.

A-163

22 Q. Who attended the Weed N' Seed monthly meetings?

23 A. Chief of police, captain of vice, I believe
24 D.E.A agent in charge, F.B.I. agent in charge. So it's



1 a whole list of federal agencies.

2 Q. How many people -- go ahead.

3 A. A list of federal agencies.

4 Q. How many people generally attended the monthly
5 meeting about the Weed N' Seed Program?

6 A. I really don't know how many.

7 Q. More than ten?

8 A. I would say. There was a lot of people around
9 the table.

10 Q. And your recollection is that somebody was
11 taking notes about what was being said at the meetings?

12 A. Either that or it was a recorder. I'm not sure.

13 Q. Did you ever see minutes from the monthly Weed
14 N' Seed meetings?

15 A. No, sir.

16 Q. Did you ever ask to see minutes from the monthly
17 Weed N' Seed meetings?

18 A. No, sir.

19 Q. Do you recall how often you complained about the
20 deployment of officers during these monthly Weed N' Seed
21 meetings?

22 A. No, sir, I don't recall.

A-164

23 Q. Was it a constant complaint of yours?

24 A. I don't recall.



1 Q. Now, I asked you in the earlier deposition
2 whether you had any understanding as to how frequently
3 the Weed N' Seed officers were supposed to visit the
4 center. And I think you said you had no understanding;
5 is that right?

6 A. That is correct. I think -- that's correct.

7 Q. So you didn't understand that they were to come
8 around once a day?

9 A. No, sir.

10 Q. Had Officer Lynch ever worked extra duty jobs at
11 the Hicks Anderson Center?

12 A. I don't recall.

13 Q. What is an extra duty job?

14 A. Sir, you have to ask Officer Lynch. I don't
15 know what their terminology for extra duty is.

16 Q. Well, do you recall telling Monica
17 Gonzalez-Gillespie that Officer Lynch had worked extra
18 duty jobs at the Hicks Anderson Center?

19 A. I don't recall the full conversation. It's been
20 since 2004 I believe. Yes, since 2004. So I don't
21 recall.

22 Q. Did you complain to anyone in the police
23 department above Officer Lynch's rank about the
24 deployment of officers in the Weed N' Seed Program?

A-165



1 A. Yes, I did.

2 Q. To whom did you complain?

3 A. Public safety director and the chief there at
4 the monthly meetings.

5 Q. Outside of that?

6 A. No, sir, not that I could recall.

7 Q. Did you ever complain to Inspector Wright about
8 the Weed N' Seed officers?

9 A. He would be at the meeting, so --

10 Q. He would be at the monthly meetings?

11 A. He would be at some of those monthly meetings.

12 Q. Did you ever complain to Lieutenant Mitchell
13 Rock about the deployment of the Weed N' Seed officers?

14 A. I don't recall.

15 Q. Did you ever complain to Sergeant Deborah
16 Donohue about the deployment of the Weed N' Seed
17 officers?

18 A. I don't recall.

19 Q. Did you ever complain to Maryln Dietz about the
20 deployment of the Weed N' Seed officers?

21 A. I don't recall.

22 Q. Did you ever complain to Nancy Dietz about the
23 deployment of Weed N' Seed officers?

24 A. I don't recall.

A-166



Michael Brown

71

1 Q. Did you tell Miss Gonzalez-Gillespie that you
2 had had a meeting with Inspector Wright and Lieutenant
3 Rock and Sergeant Donohue about the deployment of Weed
4 N' Seed officers and that meeting got very heated?

5 A. I don't recall. I mean, again, this is 2004.
6 And now it's 2007. So I really don't recall. I would
7 have to see it in writing if there was some notes made.

8 Q. Do you recall asking Sergeant Donohue during
9 that meeting to be excused from the meeting?

10 A. I don't recall.

11 Q. Do you recall asking Lieutenant Rock and
12 Inspector Wright whether they had said fuck Mike Brown,
13 don't give him nothing?

14 A. Again, I don't recall.

A-167

15 Q. You don't have any recollection of you having
16 asked that question of Inspector Wright and Lieutenant
17 Rock?

18 A. Again, since July of 2004, sir, we are in 2007
19 going two months out of the year. If you have it in
20 writing and I can look at my statements, if there was
21 any notes taken, I would certainly have no problems.

22 Q. I'm going to let you read a document that was
23 produced by the City. It's a memo dated August 2, 2004,
24 to the file from Monica Gonzalez-Gillespie and it has



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1 Bates Numbers 16 and 17.

2 A. Thank you. Okay.

3 Q. Having read the August 2, 2004, memo from
4 Miss Gonzalez-Gillespie, does that refresh your
5 recollection about the substance of the meeting you had
6 with her, Mr. Battaglia, Miss Gonzalez-Gillespie and
7 Mr. Mili?

8 A. It doesn't really enhance my memory. But
9 reading it, I remember now having that meeting. But I'm
10 still not clear of the substance of that meeting. But
11 I'm reading. So notes were taken. So, apparently, I
12 would have had to say those things if notes were taken.

13 Q. So you don't challenge any of the statements in
14 here?

15 A. No, I do not.

16 Q. Miss Gonzalez-Gillespie wrote in this memo that
17 it was a concern of yours that Officer Lynch would get
18 an inside job with weekends off after complaining that
19 you had sexually harassed her. Do you recall reading
20 that?

21 A. I recall reading it, yes.

22 Q. Do you recall saying that?

A-168

23 A. I'm not clear on the extension of that
24 conversation. But if it's, again, if it's written, then



1 we had the conversation. But I don't recall it.

2 Q. You don't recall why that might have been a
3 concern of yours?

4 A. No.

5 Q. She also wrote in the memo that you had a police
6 officer that would come forward when the time was right
7 to support your statement. Did you tell
8 Ms. Gonzalez-Gillespie that?

9 A. Again, I don't recall it. But if it's written,
10 we had the conversation. So I don't challenge the
11 validity of that.

12 Q. Who was the officer?

13 A. I'd rather not say.

14 Q. Now is the time.

A-169

15 A. I still would rather not say.

16 Q. What knowledge does this police officer have?

17 A. I don't remember. I really don't recall.

18 Q. But you remember who the officer was but you
19 don't remember what knowledge they have; is that what
20 your testimony is?

21 A. I would rather not say who the officer was.

22 Q. Why?

23 A. Well, because it's my, privy to my right.

24 Q. I don't know about that.



1 A. Okay.

2 Q. But you remember the officer's name today but
3 you don't know what knowledge that officer has about the
4 incident involving Officer Lynch; is that your
5 testimony?

6 A. I remember who the officer is. And I'm not
7 going to tell that officer's name. And the officer did
8 relay something to me once this incident, the alleged
9 allegations came out. And that's to the extent that I'm
10 going to take this conversation.

11 Q. And what did the officer relay to you an
12 incident about?

13 A. I'm not going to share that with you, sir. In
14 other words, I would rather take the fifth. As an
15 officer of the court, you can understand that right now.

16 Q. No, not really. The fifth amendment applies to
17 criminal proceedings. Unless you are worried about
18 being prosecuted criminally, that's what the fifth
19 amendment applies to.

20 A. I'm not going to say the officer's name.

21 Q. Did this officer have a statement related to
22 Officer Lynch? Was the statement related to Officer
23 Lynch?

A-170

24 A. I'm not sure what he was going to say.



1 Q. You don't know what he was going to say, you
2 remember who is or who she is, but you don't want to say
3 who it is and you don't remember what they were going to
4 say and you don't remember whether it involved Officer
5 Lynch; is that your testimony today?

6 A. Yes, sir.

7 Q. You testified earlier, I think, that you worked
8 for the Christina School District?

9 A. Christina School District.

10 Q. When you were an employee there, did anyone make
11 any complaint of sexual harassment against you?

12 A. I was never told if there was.

13 Q. And did you, at one point, have a cable
14 television program?

15 A. Yes, I did, sir.

16 Q. What was the name of the program?

17 A. Conversation with Mike Brown.

18 Q. When did the program start?

19 A. When?

20 Q. When was your first episode or program?

21 A. '95. Yeah, '95.

22 Q. What channel was the program on?

23 A. Local cable channel 28.

24 Q. When did the program come on?

A-171



1 A. At various times. 2 to 3 on second Sundays and
2 3 to 4 on fourth Sundays. And every now and then I
3 would have a Sunday night episode based on who had that
4 slot and didn't, couldn't make it and wanted to sell the
5 time. I bought the time.

6 Q. Was it a live program?

7 A. Yes.

8 Q. And you said that you bought the time. Did you
9 pay to have your program broadcast?

10 A. Yes.

11 Q. How much did you pay for each broadcast?

12 A. \$200 I believe.

13 Q. How long was your show?

14 A. It was an hour show on Sunday and a half hour
15 Sunday nights when I got it.

16 Q. What was the format of your show?

17 A. What was the format?

18 Q. Yes.

19 A. Community conversations, political conversation.

20 Q. You would have guests and you would have
21 discussions with them?

22 A. Sometimes guests and sometimes just be me and my
23 cohost.

24 Q. Cohosts or cohost?

A-172



1 A. Cohost.

2 Q. Who was your cohost?

3 A. Reverend Calvin Brown.

4 Q. And what church is reverend Calvin Brown
5 associated with?

6 A. New Life Christian Fellowship.

7 Q. Is that in Wilmington?

8 A. Yes, it is.

9 Q. Did you ever discuss Officer Lynch's complaint
10 on your television program?

11 A. No, sir.

12 Q. Did you ever complain about the deployment of
13 Weed N' Seed officers on your program?

14 A. No, sir.

15 Q. Why not?

16 A. Why should I?

17 Q. Why didn't you? A-173

18 A. Why should I though? I don't understand that
19 question.

20 Q. Did you believe that the Weed N' Seed Program
21 was designed to help the community in Wilmington?

22 A. I was a supporter of the Weed N' Seed Program
23 since it's come into existence.

24 Q. Didn't you believe there was a problem with the



1 deployment of officers in the Weed N' Seed Program?

2 A. That wasn't a conversation I had on TV. That
3 was a conversation I had with U.S. Attorney Colm
4 Connolly and the folks that was around the table.

5 Q. Did you discuss any issues related to the police
6 department your cable TV program?

7 A. Yes, police department and police officers,
8 chain of command. Higher up rather, never rank and
9 file.

10 Q. Did you ever complain about Nancy Dietz on your
11 cable TV show?

12 A. Yes, I did.

13 Q. What complaints did you make about her?

14 A. Had nothing to do with Weed N' Seed. Had
15 nothing to do with this conversation that we are having
16 right now. So --

17 Q. What complaints did you make against her?

18 MR. MILI: I'm going to object to the
19 question based on relevance. You are getting far off
20 track here. You to still have to answer it.

21 THE WITNESS: She was a captain in the
22 police department. And just had conversations about not
23 just her but others that was captains also.

24 BY MR. VANCE:



1 Q. Did you complain that she was transferring
2 police officers because of their race?

3 A. Again, I would not have said that on television.
4 So I know I didn't say that. I'm quite sure I didn't
5 say that.

6 Q. Do you know where Rodney Square is?

7 A. Of course, yes, sir.

8 Q. Okay.

9 A. Yes, sir.

10 Q. We don't all know Rodney Square.

11 A. You are from out of town. I apologize.

12 Q. Did you ever meet, run into Captain Dietz at
13 Rodney Square and give her a hug and apologize for
14 criticizing her on your TV program?

15 A. I remember having a conversation with her at a
16 fair that the City had in Rodney Square, that is
17 correct.

18 Q. Did you apologize to her for criticizing her on
19 your TV program?

20 A. We had a conversation in regards to things that
21 was said on both sides, her against me, me against her.
22 And I extended my hand and we both apologized to each
23 other and said we will start a new day.

24 Q. Was this before you became aware that Officer

A-175



1 Lynch made a sexual harassment complaint against you?

2 A. I don't recall when I did it. I just know I did
3 it.

4 Q. After you were interviewed by Monica
5 Gonzalez-Gillespie, did you make any inquiries about
6 what was going to be the result of the investigation?

7 A. I'm not sure if I did or not.

8 Q. Did it matter to you what the result of the
9 investigation was going to be?

10 A. Knowing me and knowing that those allegations
11 are false and erroneous and a bunch of lies, it bothered
12 me for a moment. But I don't recall asking what is the
13 next step. I don't.

14 Q. But you are aware that Miss Gonzalez-Gillespie's
15 investigation resulted in you being disciplined,
16 correct?

17 A. That a written -- yes. A-176

18 Q. So she concluded that there was some validity to
19 Officer Lynch's complaint. Do you recall that?

20 A. I recall receiving a letter that stated that I
21 should not have used the words "hook the brother up,"
22 that it was offensive. And that letter she gave me, I
23 don't know if you have a copy of it, but I recall that
24 that's what the letter insinuated, that I should not



1 have used that language, hooked a brother up, on City
2 time on and on City property. That wasn't appropriate
3 to use.

4 Q. Did you agree with her conclusion?

5 A. In the beginning I did not and, to some degree,
6 I don't now. It was just a conversation. And in the
7 beginning, I didn't see where it would be offensive.
8 And today I still don't see where it could be offensive.

9 Q. So you disagree with her conclusion?

10 A. I would say, yes, I do, yeah.

11 Q. Was there a mechanism for you to appeal the
12 discipline that was given to you?

13 A. There was. But I don't recall appealing.

14 Q. Why didn't you appeal if you disagreed with the
15 conclusion?

16 A. Because to me it was tedious I believe. I said
17 that to myself, that it was a tedious situation,
18 tedious, small. I wanted to get it just behind me and
19 move on.

A-177

20 Q. You believe that a City investigation finding
21 that you had engaged in some inappropriate conduct and
22 resulting in discipline to you was a small thing?

23 A. Well, I believe that because of the nature of
24 the complaint, the false, felonious lies that was stated



1 by your client, I tried my best and I still try my best
2 to put it in the back of my mind so I can move on with
3 my life.

4 Q. But if you believe they are false and felonious
5 and fabricated, why didn't you appeal the finding of
6 Miss Gonzalez-Gillespie to try to clear your name?

7 MR. MILI: Objection. Asked and answered
8 several times.

9 BY MR. VANCE:

10 Q. I didn't hear you.

11 A. I answered it already.

12 Q. You don't have anything else to add?

13 A. No, sir. A-178

14 Q. So you underwent some training prior to the time
15 that you learned what the resolution of the
16 investigation was. Do you recall that?

17 A. Please, ask that again, sir.

18 Q. Well, let me show you this.

19 MR. VANCE: Can you mark this as Brown 4?

20 (Brown Exhibit No. 4, Policy and Procedure
21 Manual Training, was marked for identification.)

22 BY MR. VANCE:

23 Q. Brown 4 is a document entitled City of
24 Wilmington Personnel Department Policy and Procedure



1 Manual Training. And it Bates Numbers 25 and 26. It's
2 also dated November 4, 2004. On the second page, is
3 that your signature?

4 A. That is, sir.

5 Q. Do you recall this training?

6 A. Yes, sir.

7 Q. Was this regular training or something that was
8 specifically ordered that you participate in?

9 A. That was part of my discipline.

10 Q. You say this training was part of your
11 discipline?

12 A. This retraining, whatever they call it,
13 retraining for going over the policy and procedures from
14 this specific area in the policy and procedure manual.

15 Q. You are sure about that?

16 A. I'm not sure about anything. But this is, this
17 looks like this was what was part of my --

18 Q. Go ahead. Part of what?

19 A. Part of my training from the policy and
20 procedures manual that you just showed me.

21 Q. Are you aware of the City's Code of Ethical
22 Conduct?

23 A. Yes, sir.

A-179

24 MR. VANCE: Can you mark that as Brown 5?



1 (Brown Exhibit No. 5, Code of Ethical
2 Conduct, was marked for identification.)

3 BY MR. VANCE:

4 Q. Mr. Brown, Brown 5 is a document entitled Policy
5 Statement, Code of Ethical Conduct, Bates Numbers 27 and
6 28. And on the second page is your signature dated
7 November 4, 2004; is that correct?

8 A. That is correct, sir.

9 Q. And this was part of the training that you
10 undertook related to the other document, Brown 4?

11 A. I believe so, sir. I believe so.

12 Q. When were you elected to the city council in
13 Wilmington?

14 A. Elections were November. General election was
15 November 4th or 6th or 3rd. It cycles. So this year I
16 think it's the 6th. One year it was the 4th. One year
17 it was the 3rd. I'm not sure. But it was the first
18 week in November.

19 Q. You don't remember the day you were elected to
20 city council?

A-180

21 A. I don't. All I know is the first week in
22 November, general election. Specific date, no. And
23 then I was sworn in January 3rd, 4th, somewhere there,
24 in '05, to assume office, to take office.



1 MR. VANCE: Okay. Can you mark this as
2 Brown 6?

3 (Brown Exhibit No. 6, Memorandum from
4 Michael Brown Dated 11/18/04, was marked for
5 identification.)

6 BY MR. VANCE:

7 Q. Brown 6 is a letter, is a memorandum dated
8 November 18, 2004, from you to Mr. Sheridan. Is that
9 your signature?

10 A. Yes.

11 Q. It has Bates Number 24. Do you recall writing
12 this memo?

13 A. Can I take a moment to read it, please?

14 Q. Sure.

15 A. Okay.

16 Q. Do you recall writing that?

17 A. Yes.

18 Q. Who is Mr. Sheridan?

19 A. He's the city solicitor here, City of
20 Wilmington.

21 Q. What is his first name?

A-181

22 A. I believe it's John Sheridan.

23 Q. Why did you write this memo to Mr. Sheridan?

24 A. Why did I write it?



1 Q. Yes.

2 A. There had been some, when I first ran for
3 office, the conversation was I couldn't hold both city
4 worker, as an employee with the City and employ, and be
5 an elected official. Before I could be sworn in as the
6 city councilman at large, I would have to resign my
7 position as the executive director of William Hicks
8 Anderson Community Center. And I think I was told one
9 too many times that I had to resign. And I just wanted
10 to let them know that I would in this letter at the
11 appropriate time before the swearing in took place.

12 Q. Now, did you have a card that gave you access to
13 the police building?

14 A. Yes, I do. Had it since 1994.

15 Q. How did you get it?

16 A. As an employee with the City of Wilmington Youth
17 Intervention housed at the Wilmington Police Department.
18 It was authorized by then Chief Stan Pratcher.

19 Q. Did that card give you access to the entire
20 police building?

21 A. No, sir.

A-182

22 Q. After you became the Hicks Anderson Center
23 director, why did you need access to the police
24 building?



Michael Brown

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1 A. I still had some ties to the police department.
2 And so I kept my card. And this card, I've had this
3 card under three chiefs, Stan Pratcher, Michael Boykin
4 and Michael Szczerba, the current chief now.

5 Q. What were the times that you just referred to?

6 A. As a city employee, as an executive to the City
7 of Wilmington. I also volunteered with community
8 parents when their youngsters got in trouble. I still
9 did some youth intervention work along with my title,
10 unofficially youth intervention work along with my title
11 as executive director.

12 Q. Now, did that card give you access to the work
13 area of Officer Lynch?

14 A. Yes. It gave me access to the first, second and
15 top floor.

16 Q. Did you continue to use the card after you knew
17 that Officer Lynch had made a sexual harassment
18 complaint against you?

19 A. Yes, I did, sir.

A-183

20 Q. Did you continue to use that card to access her
21 work area after you were aware that she had made a
22 sexual harassment complaint against you?

23 A. When I used that card, it wasn't done purposely
24 knowing that she was in the work area. It was done



1 purposely because I needed to come in the building or I
2 was in the building.

3 Q. For the reasons you testified earlier, youth
4 intervention?

5 A. What I was doing, again, I had a relationship
6 with the police department. I had access to the entries
7 of the ground floor, the second floor and the top floor.
8 What I did not have entrance to secured areas such as
9 the EDU, Evidence Detection Unit. I didn't have access
10 to personnel -- I'm sorry, for records department. I
11 didn't have access to evidence room. I didn't have
12 access to the chiefs area after 5:00 in the afternoon.
13 And on Saturdays and Sundays I didn't have access.

14 Q. Did you believe that your access to Officer
15 Lynch's work area after she had made this sexual
16 harassment complaint against you might have made her
17 feel uncomfortable?

18 A. I couldn't see how that would be, sir. So, no.
19 No, sir.

A-184

20 Q. Did anyone ever tell you that your access to
21 Officer Lynch's work area after she made the sexual
22 harassment complaint against you was inappropriate
23 because it put her in an uncomfortable position?

24 A. No, sir. I was just told that she had made



1 another complaint that I walked in looking for a captain
2 and a lieutenant in her work area. And I did not know
3 that she was there and did not say anything to her once
4 I discovered she was in there with her back turned. I
5 went right to the door that I was looking for the
6 individuals of. They were not there and I turned around
7 and I walked right back out leaving not in a fast and
8 hurried way.

9 Q. Is it your recollection that you only
10 encountered Officer Lynch in her work area on one
11 occasion after she made a sexual harassment complaint
12 against you?

13 A. No, I believe it was more than one, sir.
14 Sitting out in the hallway talking to a couple officers
15 on a bench and she would come by. Going over to H&R and
16 she was there, human resources area. So, no, no, it was
17 more than once that she would pass. I was getting on
18 the elevator one time. I remember it. And others were
19 there. And she came through.

A-185

20 Q. Did you, at any time, attempt to limit your
21 access to the police building so that you would not run
22 into Officer Lynch after she made the sexual harassment
23 complaint against you?

24 A. I wouldn't say attempt to. But, you know, right

Michael Brown

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1 now today, it's very rare that I go down there. So I
2 wouldn't use the term attempt to. There were just times
3 I went because I had a need to go and there was times I
4 didn't need to go and I didn't go.

5 Q. And you don't have any recollection of anyone
6 telling you that your key access to the police building
7 put Officer Lynch in an uncomfortable position?

8 A. Oh, no one ever told me that.

9 Q. And you didn't believe that to be the case?

10 A. I didn't think anything of it, sir.

11 Q. Do you also have a police radio?

12 A. Yes, I do, sir.

13 Q. How long have you had that?

14 A. Since 1995 as well.

15 Q. How did you get that? A-186

16 A. As a youth intervention specialist, we were
17 assigned those radios by then Chief Pratcher and again
18 under the three chiefs, Chief Pratcher, Chief Boykin and
19 now sitting Chief Mike Szczerba. I still have the
20 radio.

21 Q. Why did you need it after you left the youth
22 intervention position?

23 A. I was working in an area where -- west, city
24 city area of the town -- where it's deemed one of the



1 hot spots of the City on the City list. And it was a
2 deterrent and it was a support mechanism that I used in
3 case I needed to call the police right away. Instead of
4 doing it by phone, I did it by air. I had training on
5 the radio.

6 Q. And did you use the radio only for emergency
7 purposes?

8 A. When I was first given it, that was the reason
9 why I was to have the radio. And there was occasion
10 where I would call to get up with a sergeant, lieutenant
11 or captain and asked them to switch to another channel.
12 And then after they switched to the other channel, asked
13 them to call me by cellphone. So not all the time was
14 it an emergency when I used the phone. But I used the
15 phone to reach and touch, to contact other officers and
16 have them call me by phone.

17 Q. Do you recall, in the November of 2004 after the
18 general election, attending a meeting of WCN PAC where
19 Officer Lynch and Corporal Groark were also in
20 attendance?

21 A. Yes, I do, sir.

A-187

22 Q. Do you recall how many people were in attendance
23 at that meeting?

24 A. I don't know. They usually have a pretty good

1 following at that community meeting. So about 15, 20.

2 Q. Did you know everybody there?

3 A. No.

4 Q. Did you know most of the people there?

5 A. Yeah, I would say so.

6 Q. Were you invited to the meeting?

7 A. No.

8 Q. How did you find out about the meeting?

9 A. It was right across the street from William
10 Hicks Anderson Community Center, which I was executive
11 director at the time. And the meeting started at 6:00.
12 And I was off work. And I wanted to know what was going
13 on since I didn't know it was a meeting. So I stuck my
14 head in the door.

15 Q. Did you frequently attend WCNPAC community
16 meetings?

17 A. No. Only if I was told to do so, one, by the
18 director himself, Romain Alexander, or if there was a
19 particular subject on the agenda that the WCNPAC folks
20 wanted to discuss pertaining to Hicks Anderson and/or
21 the Helen Chambers Park.

22 Q. Who is Jerry Ortega? Do you know that person?

23 A. I believe he's the president of WCNPAC.

24 Q. Do you know who Adrian Bay is?



1 A. Dr. Adrian Bay now. She was the coordinator for
2 the Weed N' Seed under the Ministry of Caring. She
3 was -- Ministry of Caring oversaw the grant. And she
4 was hired to be the coordinator.

5 Q. Do you know who Shinekqua Baines is?

6 A. Shinekqua Baines was the assistant to the
7 executive director of WCNPAC.

8 Q. And can you describe for me the setup of the
9 meeting? Were people seated around a conference table
10 or were there rows of chairs or was it an auditorium?

11 A. I believe they had a table. I believe they had
12 a table. But in some of them meetings, because they
13 hold meetings there for AA and NA, they usually have the
14 chairs in rows. But this particular time they had a
15 table I believe.

16 Q. Did you, when you entered the meeting, take a
17 seat at a table?

18 A. Yes. After saying hello to folks by the door
19 that came in.

20 Q. And what was going on when you sat down at the
21 table?

22 A. They were having a meeting.

23 Q. What were they talking about? A-189

24 A. I don't recall that particular subject when I



1 first down what they were talking about.

2 Q. Did you notice Officer Lynch in the room?

3 A. And her partner as well, yes.

4 Q. And, at that time, you had not heard what the
5 resolution of the complaint was that Officer Lynch had
6 filed against you; is that right?

7 A. That is correct.

8 Q. So at some point the Weed N' Seed Program came
9 up as a topic at the meeting; is that right?

10 A. At that particular meeting, I wouldn't say the
11 Weed N' Seed itself -- yeah, it was. Weed N' Seed came
12 up in terms of the deployment of the Weed N' Seed
13 officers. When I sat down, that was the next question
14 that someone had asked.

15 MR. MILI: I'm going to object to this line
16 of questioning which was already asked on Friday. If we
17 have to repeat the same questions again, I see no basis
18 for doing so. Having voiced that objection on the
19 record, you can continue.

20 BY MR. VANCE: A-190

21 Q. Officer Lynch responded to a question about the
22 deployment of Weed N' Seed officers. Do you recall
23 that?

24 A. Yes, along with her partner as well. They both



1 answered some questions.

2 Q. And did you accept their answer as being true
3 and correct and accurate?

4 A. Me personally?

5 Q. You personally.

6 A. No, no, sir. I accepted some of their answer
7 but I didn't accept all their answer.

8 Q. Did you respond to the answer or the statement
9 of Officer Lynch?

10 A. Which particular part of the question? But I
11 did respond to her.

12 Q. Well, how did you respond to her?

13 A. There was a question asked about the deployment
14 of the Weed N' Seed officers. And her and her partner
15 gave the answers, her partner first and her second. And
16 I said, no, that's not true. Stop lying. That's not
17 true. Tell the truth.

18 Q. Why did you say that?

A-191

19 A. Because that's what I felt, that they were not
20 telling the truth. Her and her partner were not telling
21 the folks at the table the truth about the question that
22 was asked, whether they were in the area all the time.
23 And when they gave an answer, I said that's not true.
24 They were just pulled out of the area on mischief night.



1 Q. And how did you know that?

2 A. Because I was informed by other officers that I
3 wouldn't have any coverage over there at the Hicks
4 Anderson Community Center. And if I needed them, to
5 call, not the Weed N' Seed officers per se, but police
6 because they were pulled out to go other places in the
7 city.

8 Q. And did that concern you?

9 A. Of course it did.

10 Q. Why?

11 A. Because, one, you are leaving my community,
12 which the problems that we have had over there, Bear,
13 and, secondly, the grant from the Weed N' Seed stated
14 that officers had to stay within the boundaries of the
15 Weed N' Seed unless there was, one, a call for help by
16 another officer or, B, that they were in chase of a
17 suspect or shots fired. There was some criteria there
18 for them to leave the area.

A-192

19 Q. And when you were responding to Officer Lynch,
20 would you say that your tone of voice was calm and your
21 demeanor was calm?

22 A. No, sir. I'm always calm. I'm always calm. I
23 wouldn't say it. You say would I say it. I'm saying,
24 no, sir, I'm always calm.



1 Q. So if other people thought you were loud and
2 boisterous and speaking to the officers in a demeaning
3 tone, they would be wrong; is that your --

4 A. I think they would, sir, because I always speak
5 loud. I'm known to have a heavy voice. And you can
6 tell I'm coming just by me talking. You can stand
7 around the corner and know that I'm coming.

8 Q. You are aware that Officer Lynch filed another
9 complaint against you as a result of this incident?

10 A. I was told that, yes, sir.

11 Q. How did you find that out?

12 A. Personnel department.

13 Q. Miss Gonzalez-Gillespie?

14 A. Yes.

15 Q. And were you interviewed by her about this
16 particular incident?

17 A. Yes.

18 Q. Do you recall when you were interviewed by
19 Miss Gonzalez-Gillespie?

A-193

20 A. I truly don't. I honestly don't.

21 Q. Did you directly address Officer Lynch and call
22 her Officer Fray?

23 A. I don't recall calling her Officer Fray.

24 Q. Were you gesticulating, pointing your finger at



1 her when you were talking?

2 A. No, sir. That's communicating a threat to me,
3 sir. I don't want anybody doing that to me.

4 Q. So if you had been pointing at Officer Lynch,
5 you believe that would have been interpreted as a
6 threat, properly so?

7 A. I would think that when you're talking to
8 somebody that you -- I'm talking and I'm using my hands,
9 but I'm not pointing at you. So but if I was pointing
10 at you now, talking to you, I think I would be
11 disrespectful and could be construed as a hostile
12 situation.

13 MR. VANCE: Can you mark this as Brown 7?

14 (Brown Exhibit No. 7, Complaint, was marked
15 for identification.)

16 BY MR. VANCE:

17 Q. Mr. Brown, I handed you a document dated, a
18 memorandum dated November 29, 2004, by Monica
19 Gonzalez-Gillespie. It has Bates Number 65 through 67.
20 Have you ever seen this document before?

21 A. I don't recall, sir. May I take a moment to
22 read it?

23 Q. Sure.

24 A. Okay.

A-194



1 Q. Have you had an opportunity to read this
2 document?

3 A. Yes, I have, sir.

4 Q. I want to just direct your attention to
5 Paragraph 4. It says that Mr. Brown was trained on the
6 City's Sexual Harassment Policy and Procedure on
7 August 29, 2001. Do you recall that training?

8 A. I recall training. I don't recall the exact
9 date.

10 Q. Okay. And you read the conclusion section of
11 this document?

12 A. I did, sir.

13 Q. And the first sentence says that the evidence
14 suggests that you accused Officer Lynch of lying in a
15 public forum of members of the community and other city
16 officials and that, during the exchange, you used a tone
17 and demeanor that were intimidating and belittling of
18 Officer Lynch as he repeatedly accused Officer Lynch of
19 not being truthful. Do you agree with that conclusion?

20 A. That I accused her of lying? I admit I said to
21 her that she was lying, to stop lying.

22 Q. Okay. Do you agree with the fact that you used
23 a tone and demeanor that were intimidating and
24 belittling?

1 A. No, sir.

2 Q. In the third paragraph, Miss Gonzalez-Gillespie
3 writes that this incident is compounded by the fact that
4 Mr. Brown was found to have exhibited inappropriate
5 behavior towards this officer in a previous complaint.
6 Therefore, Mr. Brown's behavior, during that public
7 meeting, could be viewed as retaliatory. Retaliation is
8 prohibited in a violation of Personnel Policy Number
9 101.1. Do you see that?

10 A. Yes.

11 Q. Do you agree with that finding?

12 A. No, sir.

13 Q. Why not?

A-196

14 A. Again, if I agree to that, then I agree that my
15 tone and my demeanor was derogatory towards Officer
16 Lynch. And I didn't agree to that. And I don't agree
17 to that.

18 Q. The next paragraph says since Mr. Brown, WHAAC
19 executive director at the time of the incident, worked
20 with Officer Lynch, this behavior could also be termed
21 harassment per Policy 101.1(3). Harassment in this
22 policy is also defined as verbal or physical conduct
23 that disrupts or interferes with another's work
24 performance or creating an intimidating, offensive or



1 hostile work environment. Do you agree with that
2 conclusion?

3 A. No, sir.

4 Q. Why not?

5 A. Because it says the behavior could. It didn't
6 say it was. Also could be termed harassment, and I did
7 not harass your client.

8 Q. The next paragraph says this is the third
9 documented incident in which female employees found
10 comments made by Mr. Brown offensive. Two of those
11 incidents involve Officer Lynch. What was the third
12 one?

13 A. I think you discussed that on Friday about a
14 young lady by the name of Cherry. I don't know her
15 first name.

16 MR. VANCE: Okay. Can you mark this as
17 Brown 8?

18 (Brown Exhibit No. 8, Memorandum from Monica
19 Gonzalez-Guillespie Dated 12/7/04, was marked for
20 identification.)

21 BY MR. VANCE:

A-197

22 Q. Brown 8 is a memo dated December 7, 2004, from
23 Monica Gonzalez-Gillespie to you regarding the June,
24 2004, harassment complaint. Do you recall receiving



1 this document?

2 A. May I read it first? I don't -- let me see. I
3 might have. May I read it though, please?

4 Q. Sure.

5 A. Okay, sir.

6 Q. Do you recall receiving this memo?

7 A. I think so, sir.

8 Q. What action did you take, if any, after you
9 received the memo?

10 A. I was given training through the Department of
11 Personnel.

12 Q. Do you know who inspector Martin Donohue is?

13 A. Yes, I do, sir.

14 Q. Were you ever advised that Captain Nancy Dietz
15 had written a memorandum to Inspector Donohue, Martin
16 Donohue, related in part to your interactions with
17 Officer Lynch?

18 A. Could you ask that again?

19 Q. Were you ever advised or made aware of the fact
20 that Captain Nancy Dietz had written a memo to Inspector
21 Martin Donohue that related, in part, to interactions
22 between you and Officer Lynch?

23 A. I don't recall, sir.

A-198

24 Q. You don't recall whether you were made aware of



1 that or you were not?

2 A. I was not. So I don't recall being aware of
3 that.

4 Q. Do you know who Captain Ayala is, sir?

5 A. Yes, I do, sir.

6 Q. Did you ever go for a ride-along with Captain
7 Ayala?

8 A. I have, sir, along with other officers as well.

9 Q. Did you have a conversation with Captain Ayala
10 relating to the Officer Lynch incident and Captain
11 Maryln Dietz and Lieutenant Mitchell Rock in which you
12 told Captain Ayala that you thought Captain Dietz and
13 Lieutenant Rock should be fired?

14 A. No, sir, I don't recall saying that to Captain
15 Ayala.

16 Q. You never told him that you thought Maryln Dietz
17 and Mitch Rock should be fired?

18 A. I don't recall making that statement to Captain
19 Ayala, sir.

20 Q. Were you made aware of the fact that Captain
21 Maryln Dietz had complained to Chief Szczerba that the
22 City Personnel Department was not acting fast enough on
23 Officer Lynch's sexual harassment complaint against you
24 that had been made in June of 2004?



1 A. No, sir.

2 Q. Do you recall telling anyone that you thought
3 Captain Maryln Dietz should have squashed the complaint
4 that Officer Lynch had against you, the sexual
5 harassment complaint?

6 A. No, sir.

7 Q. You never told them it should have been squashed
8 or it never should have gotten out of the police
9 department?

10 A. No, sir.

11 Q. Did you ever tell Lieutenant Rock that you
12 believed that Maryln Dietz and Lieutenant Rock had sent
13 Officer Lynch to the meeting in November of 2004 to set
14 you up?

15 A. At the WCNPAC meeting?

16 Q. Yes.

17 A. I didn't say the WCNPAC meeting, sir. But I did
18 have, I do remember having a conversation with
19 Lieutenant Rock when he approached me out on Market
20 Street someplace. And he was doing something that I had
21 asked him to do for business. And we had conversation.
22 But it wasn't about her at, Officer Lynch setting me up
23 at the WCNPAC meeting.

A-200

24 Q. Where did you tell him that you thought Officer



1 Lynch had been sent to set you up?

2 A. I think the conversation started off by with
3 Lieutenant Rock saying that he had nothing to do with
4 Officer Lynch's complaint and that he wished that it had
5 never gotten to that point. And I told him don't worry
6 about it because I didn't do anything. And, at one
7 point, I did say to him I thought you and Maryln had
8 something to do with her coming after me.

9 Q. Why did you say that?

10 A. Well, I'm very vocal, very, very vocal. I talk.
11 You know, I don't mind saying what I have to say. And,
12 at some point, without divulging that officer earlier
13 that we were talking about, I felt that the only way to
14 shut me up was to embarrass me or come after me in some
15 kind of way. And I felt certain police officers were
16 coming at me in some kind of way.

A-201

17 Q. Why did you think that Maryln Dietz and
18 Lieutenant Rock were coming after you?

19 A. Lieutenant Rock brought that conversation up,
20 that he and Captain Maryln had nothing to do with it.

21 Q. So why did you think that they were setting you
22 up? Why did you think they were coming after you?

23 A. Because of, in the past, I thought that they
24 were -- excuse my language -- I thought they were



1 knuckle heads. Not knuckle heads. I thought they were
2 being big heads with their positions in patrol. And
3 there was a lot of complaints coming out of control
4 about their leadership. And it was coming to me. And I
5 was addressing that.

6 Q. And this anonymous officer is the one who
7 provided you some information in this regard?

8 A. I think that he could have or she could have put
9 some light on my feelings the way I felt.

10 Q. When do you plan on disclosing the name of this
11 officer?

12 A. I'm not.

13 Q. Ever?

14 A. I will probably use it later on down the line.

15 Q. Down what line?

16 A. Well, I've got to clear my name. And I think my
17 name has been smeared in this whole thing, that I have
18 been falsely accused, as I said to you on Friday, by
19 your client. And there has been statements made by
20 other officers, captains and sergeants that is certainly
21 not true. And so somewhere down the line, if I decide
22 to pursue this, then that might have to come out. That
23 officer, he or she, may have to come out and reveal
24 themselves.



1 Q. You mean down the line like in the trial of this
2 lawsuit?

3 A. Probably.

4 Q. Let me tell you something. You better disclose
5 that name now or you are never going to be able to use
6 that person.

7 A. Then I probably won't use it at the trial.

8 Q. Have you informed your attorney of the identity
9 of this person?

10 A. No, sir.

11 MR. MILI: I think you know better than to
12 ask someone what he's informed the City attorney about.
13 That was way out of line.

14 MR. VANCE: I disagree with you.

15 MR. MILI: You disagree that you can ask an
16 employee of the City whether he has informed an attorney
17 employed by the City to represent the City and its
18 agents about any conversations that he may or may not
19 have had? That's a serious breach --

20 MR. VANCE: No. You are absolutely
21 ridiculous. If he's intending on using a person as a
22 defense in this case that you are not disclosing and you
23 know who that person is, then that's a problem that you
24 are going to have. So it's certainly appropriate to ask



1 whether you are aware of the identity of that person.

2 MR. MILI: You never, ever ask someone what
3 they discussed with the attorney. You know better than
4 that.

5 MR. VANCE: Well, all right. That's your
6 view of the attorney/client privilege, which is
7 certainly incorrect.

8 MR. MILI: It's correct.

9 MR. VANCE: If you think it's correct.

10 MR. MILI: I know it's correct.

11 MR. VANCE: You do what you think you have
12 to do. But let me tell you, if you know the identity of
13 the person he's talking about and you do not disclose
14 it, you know you can't use this person at trial. And
15 he's already alluded to the fact that down the line,
16 i.e., at this trial, he intends to do that. So it's
17 perfectly appropriate to inquire as to whether you know
18 the identity of the person. Because if you do and you
19 are not disclosing it, you certainly can't use him or
20 her at trial.

21 MR. MILI: Move on and ask your next
22 question.

A-204

23 MR. VANCE: There is nothing inappropriate
24 about that. You go back and speak to your solicitor



1 about that.

2 MR. MILI: Move on and ask your next
3 question.

4 MR. VANCE: And you have him educate you
5 about that as to the federal rules.

6 BY MR. VANCE:

7 Q. Do you know who Jim Mosley is?

8 A. James Mosley.

9 Q. James Mosley.

10 A. He's the public safety director currently.

11 Q. Did you have any discussions with James Mosley
12 about Officer Lynch's complaint, sexual harassment
13 complaint against you?

14 A. I don't recall.

15 Q. Again, you don't recall or you did not?

16 A. I don't recall.

17 Q. So you may have?

18 A. I don't recall.

19 Q. Okay. Do you recall telling Public Safety
20 Director Mosley that you were going to get Nancy Dietz?

21 A. I don't recall that as well.

22 Q. Were you ever contacted by anyone who wanted to
23 register a complaint against Lieutenant Rock?

24 A. That has anything to do with this?



1 MR. MILI: I make an objection based on
2 relevance. You still have to answer but the objection
3 stands on the record.

4 THE WITNESS: Yes, I was contacted by the
5 family of an individual.

6 BY MR. VANCE:

7 Q. When was that?

8 A. I don't recall exactly when, sir.

9 Q. Was it after you received notice of the results
10 of the City investigation of Officer Lynch's complaints,
11 sexual harassment complaint against you?

12 A. Honestly, I don't recall.

13 Q. Was it when you were a councilperson or when you
14 were the executive director of the Hicks Anderson
15 Center?

16 A. I honestly don't recall.

17 Q. Okay. I'm just trying to pin it down. Now, I
18 think I asked you before whether you know Inspector
19 James Wright. And you do know Inspector Wright,
20 correct?

21 A. That is correct, sir. Retired.

A-206

22 Q. Did you tell Monica Gonzalez-Gillespie in
23 connection with her investigation of Officer Lynch's
24 complaints that Officer Lynch had made a comment to you



1 that whitey was trying to get her and you?

2 A. I read that in one of your exhibits. So if it's
3 in there, I would have had to have a meeting and say it.
4 So --

5 Q. But you don't have any independent recollection
6 of it other than what's stated in the document?

7 A. No, sir. That's correct.

8 MR. VANCE: This would be Brown 9.

9 (Brown Exhibit No. 9, Memo from Romain
10 Alexander Dated 12/13/04, was marked for
11 identification.)

12 BY MR. VANCE:

13 Q. Mr. Brown, Brown 9 is a memo dated December 13,
14 2004, from Romain Alexander to you entitled written
15 disciplinary warning. And it has Bates Numbers 48
16 through 49. Do you recall receiving this document?

17 A. Yes, I do, sir. May I take a moment to read it?

18 Q. Certainly. Do you recall receiving this?

19 A. Yes, I did, sir.

A-207

20 Q. And did you complain to Mr. Alexander about this
21 written disciplinary warning?

22 A. I don't recall if I complained to him or not. I
23 don't recall. But I received this. So I don't recall
24 complaining to him about it or not.



1 MR. VANCE: All right. Can you mark that
2 Brown 10?

3 (Brown Exhibit No. 10, Letter from Monica
4 Gonzalez-Gillespie Dated 12/21/04, was marked for
5 identification.)

6 BY MR. VANCE:

7 Q. Brown 10 is a letter dated December 21, 2004,
8 from Monica Gonzalez-Gillespie to you. It has Bates
9 Number 53. Do you recall receiving this letter?

10 A. Yes.

11 Q. Is this the first notice that you received that
12 Officer Lynch had made a complaint against you related
13 to the WCNPAC meeting?

14 A. I don't recall. But I recall receiving this.
15 So I don't recall if this is the first notification or
16 not.

17 MR. VANCE: Can you mark that Brown 11?

18 (Brown Exhibit No. 11, Letter from Romain
19 Alexander Dated 12/23/04, was marked for
20 identification.)

21 BY MR. VANCE: A-208

22 Q. Brown 11 is a letter dated December 23, 2004,
23 from Victor Battaglia to Romain Alexander regarding you.
24 It has Bates Number 50 on it and carbon copy. There is



1 a carbon copy addressed to you. Do you recall receiving
2 a copy of this letter?

3 A. Yes, I do.

4 Q. And is it still your position that you were
5 libeled by the quoted portion of the memo from
6 Mr. Alexander to you that your attorney describes in
7 this letter?

8 A. Please repeat.

9 Q. Is it still your position today that you were
10 libeled by Romain Alexander when he wrote in the memo
11 that was marked, I think, Brown 9, quote, that you used
12 sexually suggestive language, et cetera, et cetera?

13 A. After discussing this with Mr. Battaglia, it was
14 suggested through this letter that that type of language
15 be taken out of the letter that Mr. Alexander gave me.
16 So on behalf of Mr. Battaglia, he was representing me to
17 ask that this, that I not be held liable for that word.

18 Q. Do you know what libel is, L-I-B-E-L?

19 A. What do you mean? I'm being held liable for a
20 comment per the personnel director and the director of
21 parks and recreation for the alleged allegations.

22 Q. Do you know what defamation is?

A-209

23 A. No. Would you explain that to me?

24 Q. Do you understand the sentence that Mr. Brown



1 complains that you have libeled him by writing that
2 investigation determined what he stated? Do you know
3 what your attorney meant when he said in this letter
4 that Mr. Brown complains that you have libeled him?

5 A. No. Would you explain that part for me?

6 Q. No. I'm asking: Did you understand it?

7 A. My attorney, I have strong confidence in him, so
8 I accepted this letter to be sent to personnel.

9 Q. Mr. Brown, do you recall an interview with
10 someone from the personnel department in January, 2005,
11 related to the WCNPAC incident?

12 A. Who is the someone?

13 Q. I don't know. It's unsigned. But do you
14 recall?

15 A. No.

16 Q. Let me show you a document produced by your
17 attorney -- it has Bates Number 59 -- entitled complaint
18 against Michael Brown, III, dated January 5, 2005.

19 MR. MILI: When you say your attorney, to
20 whom are you referring?

21 MR. VANCE: You. A-210

22 MR. MILI: I'm actually the attorney for the
23 City.

24 MR. VANCE: You are a City employee at this



1 time, so your attorney.

2 THE WITNESS: I'm reading this. But I don't
3 know who wrote it. So --

4 BY MR. VANCE:

5 Q. Nor do I. But my question is: Having read this
6 document, does it refresh your recollection about an
7 interview that you had with someone in the personnel
8 department related to Officer Lynch's complaint against
9 you arising out of the WCN PAC meeting in November, 2004?

10 A. No.

11 Q. You have no recollection of saying the things
12 that whoever wrote this document says that you said by
13 putting them in quotes?

14 A. No, sir, I don't have any recollection.

15 MR. VANCE: This would be Brown 12.

16 (Brown Exhibit No. 12, Memo From Monica
17 Gonzalez-Gillespie Dated 3/9/05, was marked for
18 identification.)

19 BY MR. VANCE:

A-211

20 Q. Brown 12 is a memo dated March 9, 2005, from
21 Monica Gonzalez-Gillespie to you regarding the hostile
22 work environment complaint filed by Fray Lynch. It has
23 Bates Numbers 70 and 71. Would you take a moment and
24 look at this document?



1 A. Thank you. Okay, sir.

2 Q. Do you recall receiving this document?

3 A. I believe so, sir, yes.

4 Q. Do you disagree with the findings of Miss Monica
5 Gonzalez-Gillespie as stated in this document?

6 A. Yes, I do, sir.

7 Q. Did you have any avenue of appeal of those
8 findings?

9 A. No, sir.

10 Q. No? Why not?

11 A. As you stated earlier -- as I stated earlier, I
12 didn't want to appeal it, didn't need to appeal it.

13 Q. No, my question was: Was there an avenue of
14 appeal available to you with respect to this finding of
15 this investigation?

16 A. I believe I could have asked for a second
17 opinion or another appeal.

18 Q. And you did not?

19 A. That is correct.

A-212

20 Q. Why did you not appeal this, the finding on this
21 particular complaint?

22 A. Just like I didn't appeal the first finding,
23 sir, they were lies. Your client made allegations that
24 were false and I wanted to just go ahead and move on.



1 Q. Let me show you this document. It's marked 59
2 or Bates stamped 59 again. Do you have any reason to
3 doubt the accuracy of the quotes that are attributed to
4 you in this document?

5 A. Again, without knowing who wrote this document,
6 I cannot respond to this document.

7 MR. VANCE: Can you mark this as Brown 13?

8 (Brown Exhibit No. 13, Letter From Victor
9 Battaglia Dated 3/11/05, was marked for identification.)

10 BY MR. VANCE:

11 Q. Mr. Brown, Brown 13 is a letter dated March 11,
12 2005, from Victor F. Battaglia to Monica
13 Gonzalez-Gillespie. It has Bates Numbers 78 and 79.
14 And you are listed as having received a carbon copy of
15 the letter. Would you take a minute and read through
16 it?

17 A. Thank you. Okay, sir.

18 Q. Have you had a chance to read through it?

19 A. Yes, sir.

20 Q. Do you recall receiving a copy of the letter?

21 A. I believe so, sir.

22 Q. Okay. On the last page or the second page of
23 the letter, Mr. Battaglia demanded that

24 Miss Gonzalez-Gillespie withdraw the letter and

A-213



1 apologize to you for what he characterized as an
2 accusation. And he also wrote that he expected a reply
3 by March 16, 2005. Do you see that?

4 A. I do, sir.

5 Q. Do you have any information as to whether or not
6 a reply to the request was received?

7 A. No, sir, I have no information.

8 Q. And as far as you know, the March 9, 2005,
9 letter was not withdrawn; is that right?

10 A. As far as I know, sir.

11 Q. And Mr. Gonzalez-Gillespie did not apologize to
12 you?

13 A. No, sir.

A-214

14 MR. VANCE: This would be 14.

15 (Brown Exhibit No. 14, Memo From Theodore
16 Blunt Dated 3/16/05, was marked for identification.)

17 BY MR. VANCE:

18 Q. Brown 14 is a memo dated March 16, 2005, from
19 Theodore Blunt to John Sheridan regarding resolution of
20 harassment complaint against Michael A. Brown, Sr. And
21 you are listed as having received a copy of and it has
22 Bates Number 81. Can you read through this?

23 A. Yes. You are saying take your time and read?

24 Q. Yes.



1 A. I have read, sir.

2 Q. Do you disagree with any of the statements made
3 by Theodore Blunt in this memorandum?

4 A. No, sir.

5 Q. Were you disciplined in any way by Mr. Blunt in
6 connection with the complaint that Officer Lynch made
7 against you arising out of the WCNPAC meeting?

8 A. As stated in the letter, sir, he has no power to
9 do that, sir.

10 Q. So, no, then, you were not?

11 A. As is stated in the letter, no. Yes, sir.

12 MR. VANCE: Let me meet with Officer Lynch
13 and we may be finished.

14 (Discussion off the record.)

15 BY MR. VANCE:

16 Q. Okay. Mr. Brown, a couple more questions. In
17 the fall of 2004, did you ever seek the removal of
18 Captain Maryln Dietz as commander of the patrol
19 division?

A-215

20 A. Could you tell me what this has to do with this?

21 Q. Could you answer the question?

22 MR. MILI: Objection. Relevance. You could
23 answer.

24 THE WITNESS: I personally, no. Removal of



1 Maryln Dietz, no.

2 Q. You never suggested that he should be removed as
3 commander of the patrol division in the fall of 2004?

4 A. No. Council, council body, we suggested it. I
5 was one of 13 council members.

6 Q. But you were not a member of city council in the
7 fall of 2004.

8 A. Oh, in 2004.

9 Q. Yes.

10 A. I don't recall that, no.

11 Q. But from your answer, I take it after you became
12 a member of council, council requested his removal?

13 A. There was some issues, yes, or concerns.

14 Q. Were you a member of the Public Safety Committee
15 of council?

16 A. I am still a member of Public Safety, yes.

17 Q. Did you, in the fall of 2004, seek the removal
18 of Lieutenant Mitchell Rock?

19 A. In 2004? No.

20 Q. Did you ever attempt to get Maryln Dietz
21 transferred from patrol division?

22 A. In what year?

23 Q. At any time while you were the executive
24 director of the Hicks Anderson Center.



1 A. No.

2 Q. How about since you have been on city council?

3 A. There has been some issues and concerns that
4 council had to address. So, yes, I was one of 13.

5 Q. And your testimony is that all members of
6 council requested that Captain Maryln Dietz be removed
7 from the patrol division?

8 A. I won't say all. No, I won't say all.

9 Q. You were one of 13 --

10 A. I was one of 13 council members that had to
11 address some concerns.

12 Q. In addressing those concerns, did you request
13 that Captain Maryln Dietz be removed from the patrol
14 division?

15 A. There was a suggestion and through Public
16 Safety, which is public record, that there was concerns
17 about the leadership of Captain Maryln Dietz and it was
18 brought to our attention so we addressed it.

19 Q. The Public Safety Committee of city council?

20 A. Yes.

21 Q. And you said that's part of the meetings or
22 proceedings of the Public Safety Committee?

23 A. Oh, yeah, it's open documents. Yes.

A-217

24 Q. Were certain anonymous letters delivered to you



1 that attacked Maryln Dietz and Lieutenant Rock as being
2 racist?

3 A. Again, what --

4 Q. Just answer the question.

5 A. But I want to say that it has no bearing on
6 this.

7 MR. VANCE: That's fine.

8 MR. MILI: I have a standing objection for
9 relevance to this entire line of questioning. You still
10 have to answer.

11 THE WITNESS: I will answer it. There were
12 complaints and letters written to council members in
13 regards to some concerns that dealt with the patrol
14 division in which Captain Dietz, Maryln at that point,
15 and Lieutenant Rock was leaders of.

16 BY MR. VANCE:

17 Q. Were those letters turned over to the police
18 department?

19 A. Yes, copies of them were.

20 Q. And I think earlier I asked you about an
21 individual who had made a complaint against Lieutenant
22 Rock that you were aware of. Do you recall that?

23 A. I recall you just asked me that question
24 earlier, yes.



1 Q. Did the City Council Public Safety Committee
2 suggest that Captain Gilbert Howell investigate the
3 complaint of this person?

4 A. I don't know who the public safety chairperson
5 suggested. It would have come from her.

6 Q. Stephanie Holden?

7 A. Stephanie Bolden.

8 MR. VANCE: I'm sorry. All right. I don't
9 have any other questions.

10 MR. MILI: That's it for me. He's going to
11 read and sign and we would like to have an expedited
12 transcript as quickly as possible.

13 (Thereupon, the deposition concluded at 12:00 p.m.)

14 - - - - -
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CERTIFICATE OF REPORTER

I, Anne L. Adams, Registered Professional Reporter and Notary Public, do hereby certify that there came before me on the 30th day of October, 2007, the deponent herein, MICHAEL BROWN, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed into typewriting under my direction.

I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

Anne L. Adams

Certification No. 105-RPR

(Expires January 31, 2008)



Anne L. Adams

DATED: November 2, 2007

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

- - -
FRAY LYNCH,)
)
Plaintiff,)
) Civil Action
v.) No. 06-351 JJF
)
CITY OF WILMINGTON,)
)
Defendant.)

Deposition of MONICA GONZALEZ-GILLESPIE,
taken pursuant to notice at the City of Wilmington Law
Department, Louis L. Redding City/County Building, 800
North French Street, 9th Floor, Wilmington, Delaware,
beginning at 2:40 p.m., on Thursday, October 18, 2007,
before Terry Barbano Burke, RMR-CRR and Notary Public.

APPEARANCES:

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For the Defendant

ALSO PRESENT:

FRAY LYNCH

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(302) 655-0477

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<p style="text-align: right;">2</p> <p>1 MONICA GONZALEZ-GILLESPIE, 2 the deponent herein, having first been 3 duly sworn on oath, was examined and 4 testified as follows: 5 BY MR. VANCE: 6 Q. Good afternoon, Miss Gonzalez-Gillespie. 7 A. You don't have to say that every time. How 8 about Monica? 9 Q. How about Miss Gonzalez? 10 A. That's fine. 11 Q. I apologize for being late. Thank you for 12 being on time. 13 I am representing Miss Lynch in her 14 lawsuit against the City of Wilmington, and I will be 15 taking your deposition this afternoon. 16 Have you ever been deposed before? 17 A. Yes. 18 Q. So you're familiar with the ground rules, but 19 just to run over a few important ones, just make sure 20 that you give verbal answers to my questions so that 21 the reporter can make a record. 22 If you don't understand a question that 23 I ask, just make sure you tell me that and I will 24 rephrase the question for you, because when I ask you a</p>	<p style="text-align: right;">4</p> <p>1 management, benefits, employee and labor relations. 2 Q. Can you tell me a little bit about your 3 educational background? 4 A. I have an undergraduate in communications and 5 a master's in business administration. 6 Q. Do you have a BA in communications? 7 A. Yes. 8 Q. Where did you get that? 9 A. University of Delaware. 10 Q. And when did you get that? 11 A. That's kind of personal, isn't it? '84. 12 Q. You said you have a master's in business 13 administration? 14 A. Yes. 15 Q. When did you get that? 16 A. I think I finished in 2001. 17 Q. Where did you get that? 18 A. Wilmington College. 19 Q. Are you responsible in any respect for 20 training new city employees? 21 A. Yes. 22 Q. What aspect of the training of new city 23 employees are you responsible for? 24 A. Well, I have an employee relations adviser who</p>
<p style="text-align: right;">3</p> <p>1 question and you answer it, I'm going to presume that 2 you understood the question and that your answer was 3 responsive to the question that I posed. 4 Do you understand that? 5 A. Yes. 6 Q. In the last day or two, have you taken any 7 kind of drug or any medication that might interfere 8 with your ability to understand my questions or to 9 answer them? 10 A. No. 11 Q. You are employed by the City of Wilmington? 12 A. Yes. 13 Q. What's your current position? 14 A. Director of personnel. 15 Q. How long have you held that position? 16 A. Since January of 2001. 17 Q. How long have you worked for the City of 18 Wilmington? 19 A. Since May of 2000. 20 Q. Are you a political appointee? 21 A. Yes. 22 Q. First let me just ask you, generally, what are 23 your responsibilities as the director of personnel? 24 A. I oversee the recruitment, employment, risk</p>	<p style="text-align: right;">5</p> <p>1 basically reviews policies and -- well, she coordinates 2 it, actually. There are several people who are 3 involved. But basically all the employment 4 documentation, reviewing policies. What else is in 5 there? I guess that's primarily it. 6 Q. As part of the training that employees go 7 through, is there training on sexual harassment? 8 A. Yes. 9 Q. And the city does have a sexual harassment 10 policy? 11 A. Yes. We call it a harassment-free work 12 environment policy. 13 Q. How frequently are employees required to 14 participate in training on that policy? 15 A. Upon hire, and then I believe it's every three 16 years. 17 Q. Does your department maintain records of the 18 employees who participate in the training? 19 A. Yes. 20 Q. I want to focus your attention on the year 21 2004. You were advised of a complaint that Officer 22 Lynch had made against Michael Brown, who at the time 23 was the executive director of a city recreation center; 24 is that correct?</p>

Lynch v. City of Wilmington
Monica Gonzalez-Gillespie

6	<p>1 A. Yes.</p> <p>2 Q. How were you advised of the complaint?</p> <p>3 A. I believe there was a formal written document</p> <p>4 that Officer Lynch provided to, I believe it might have</p> <p>5 been someone in the police department, but it came to</p> <p>6 the employee relations adviser in my staff, and she</p> <p>7 forwarded it to me.</p> <p>8 Q. Did that chain of events follow the normal</p> <p>9 course with respect to complaints by city employees</p> <p>10 against another city employee?</p> <p>11 A. Well, normally out of the police ranks, the</p> <p>12 employee can go directly to our personnel adviser. In</p> <p>13 this particular situation, Officer Lynch, I guess, went</p> <p>14 through the police department first.</p> <p>15 Q. And then the complaint was forwarded to you?</p> <p>16 A. Yes. Through our person who takes the</p> <p>17 complaints, the employee relations adviser.</p> <p>18 Q. Typically what do you do when you receive</p> <p>19 complaints in that manner?</p> <p>20 A. Well, it depends on the level of complaint.</p> <p>21 Our employee relations adviser first screens them.</p> <p>22 We'll usually talk with the complainant first. If it's</p> <p>23 against a manager, she usually will just give it to</p> <p>24 either myself or the deputy director of personnel for</p>	8	<p>1 an employee of the city basically, that's how I know</p> <p>2 him.</p> <p>3 Q. You didn't know him personally?</p> <p>4 A. No.</p> <p>5 Q. Did you know him on a first name basis?</p> <p>6 A. No.</p> <p>7 Q. Had you received any prior complaints about</p> <p>8 him?</p> <p>9 A. Actually, there was one other complaint.</p> <p>10 Q. Who had made that complaint?</p> <p>11 A. It was an employee of the parks department.</p> <p>12 Q. What was that person's name?</p> <p>13 A. I cannot recall her name.</p> <p>14 Q. It was a woman?</p> <p>15 A. Yes, it was a female.</p> <p>16 Q. What was the nature of her complaint?</p> <p>17 A. I don't recall.</p> <p>18 Q. Did you investigate that complaint?</p> <p>19 A. Yes.</p> <p>20 Q. When was the complaint investigated?</p> <p>21 A. Again, I don't recall. I didn't go back and</p> <p>22 look at it recently. It was early, though. It was</p> <p>23 probably a year or two before this incident.</p> <p>24 Q. So that would be some time in 2002 or 2003?</p>
7	<p>1 us to decide whether we want her to handle it or we</p> <p>2 want to handle it, because it's a member of management.</p> <p>3 I believe that's what may have happened here. She gave</p> <p>4 it to us and I decided that I was going to handle it.</p> <p>5 Q. When you say "us," who is the us?</p> <p>6 A. Either myself or the deputy director of</p> <p>7 personnel.</p> <p>8 Q. Who is that?</p> <p>9 A. His name is Sam Pratcher.</p> <p>10 Q. Why did you decide that you were going to</p> <p>11 handle the complaint that Officer Lynch made against</p> <p>12 Michael Brown?</p> <p>13 A. Well, because he was a manager.</p> <p>14 Q. But as between you and Mr. Pratcher, why did</p> <p>15 you decide you would investigate the complaint as</p> <p>16 opposed to him investigating the complaint?</p> <p>17 A. I don't recall.</p> <p>18 Q. Did you know Mr. Brown prior to the time that</p> <p>19 Officer Lynch had made the complaint against him?</p> <p>20 A. Only as an employee of the city.</p> <p>21 Q. What do you mean by that?</p> <p>22 A. I had seen him at meetings.</p> <p>23 Q. What kinds of meetings?</p> <p>24 A. I don't know. I don't recall exactly. He was</p>	9	<p>1 A. That would be a best guess, yes.</p> <p>2 Q. Did anyone other than yourself investigate the</p> <p>3 complaint?</p> <p>4 A. I don't recall if there was another member of</p> <p>5 my staff that was involved.</p> <p>6 Q. And was Mr. Brown a member of management at</p> <p>7 the time the complaint was made?</p> <p>8 A. I believe he was the manager. I believe he</p> <p>9 still had that same position.</p> <p>10 Q. And you don't recall any of the substance of</p> <p>11 the complaint?</p> <p>12 A. No, I really don't.</p> <p>13 Q. Or the name of the complaining person?</p> <p>14 A. No.</p> <p>15 Q. How long did it take you to investigate the</p> <p>16 complaint?</p> <p>17 A. I don't recall.</p> <p>18 Q. What did you conclude after investigating the</p> <p>19 complaint?</p> <p>20 A. I don't recall the conclusion. I'm sorry.</p> <p>21 Q. Do you have any records related to this</p> <p>22 complaint?</p> <p>23 A. I probably do, yes.</p> <p>24 Q. In your office?</p>

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Lynch v. City of Wilmington
Monica Gonzalez-Gillespie

10	<p>1 A. I'm going to assume so, yes.</p> <p>2 Q. Would you provide them to Mr. Mili? Do you</p> <p>3 have any objection to that?</p> <p>4 MR. MILI: I do. You didn't make a</p> <p>5 discovery request. At the status conference, you said</p> <p>6 you didn't want to do any paper discovery. You just</p> <p>7 wanted to do depositions.</p> <p>8 MR. VANCE: But now she is making</p> <p>9 reference to documents and she can't remember the</p> <p>10 facts, so I think I'm going to need those reports.</p> <p>11 BY MR. VANCE:</p> <p>12 Q. Do you have any objection to giving those</p> <p>13 documents to Mr. Mili?</p> <p>14 A. Not unless my attorney objects.</p> <p>15 MR. MILI: I object.</p> <p>16 MR. VANCE: Well, we'll have to have the</p> <p>17 judge resolve the issue.</p> <p>18 MR. MILI: We will.</p> <p>19 BY MR. VANCE:</p> <p>20 Q. You don't recall the name of the complainant,</p> <p>21 you don't recall the exact date --</p> <p>22 A. I --</p> <p>23 Q. Let me get everything on the record you don't</p> <p>24 recall.</p>	12
11	<p>1 You don't recall the name of the person</p> <p>2 who made the complaint against Mr. Brown; is that</p> <p>3 correct?</p> <p>4 A. That's correct.</p> <p>5 Q. You don't recall the date and when this person</p> <p>6 made the complaint against Mr. Brown; is that right?</p> <p>7 A. That's correct.</p> <p>8 Q. You don't recall the resolution of the</p> <p>9 complaint; correct?</p> <p>10 A. That's correct.</p> <p>11 Q. You don't recall any of the findings of the</p> <p>12 complaint?</p> <p>13 A. That's correct.</p> <p>14 Q. Do you recall who you interviewed in</p> <p>15 connection with the complaint?</p> <p>16 A. I believe I interviewed the person who made</p> <p>17 the complaint and Mr. Brown.</p> <p>18 Q. Just the two of them?</p> <p>19 A. I don't know if I interviewed. I don't recall</p> <p>20 if I interviewed anyone else. I know I interviewed</p> <p>21 those two.</p> <p>22 Q. You do recall that you were the only person</p> <p>23 who interviewed anyone in connection with the</p> <p>24 complaint; is that correct?</p>	13
	<p>1 A. No, that's not what I said. I said I don't</p> <p>2 remember if there was anyone else of my staff that was</p> <p>3 involved.</p> <p>4 Q. And you believe you have documents related to</p> <p>5 the complaint?</p> <p>6 A. I believe I do, yes.</p> <p>7 Q. Are you required to maintain documents in your</p> <p>8 file for any particular length of time?</p> <p>9 A. Not these particular documents, no.</p> <p>10 Q. What do you mean by that?</p> <p>11 A. Well, we have rules for medical files. We</p> <p>12 have rules for personnel files. I don't have any</p> <p>13 documented or stated rules for investigative files.</p> <p>14 Q. The city has no policy with respect to how</p> <p>15 long you have to retain files related to the</p> <p>16 investigation of employee complaints; is that right?</p> <p>17 A. I believe that's what I just said, yes.</p> <p>18 Q. I'm asking you the question, is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Were there any other prior complaints against</p> <p>21 Mr. Brown?</p> <p>22 A. Not that I know of, no.</p> <p>23 Q. Do you know how long Mr. Brown had served as</p> <p>24 the executive director of the Hicks Recreation Center?</p>	

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14	<p>1 A. Yes.</p> <p>2 Q. How long did it take you to complete your</p> <p>3 investigation?</p> <p>4 A. I believe I furnished a final document the</p> <p>5 beginning of December.</p> <p>6 Q. Of 2004?</p> <p>7 A. Yes.</p> <p>8 Q. Why did it take six months to interview three</p> <p>9 people?</p> <p>10 A. It didn't.</p> <p>11 Q. Why did it take six months to complete an</p> <p>12 investigation?</p> <p>13 A. At the time I had a lot of work to do, and I</p> <p>14 wasn't sure how actually to resolve the issue.</p> <p>15 Q. What do you mean by that?</p> <p>16 A. Well, based on the information that I had, how</p> <p>17 to best resolve the situation. So it took me awhile to</p> <p>18 figure it out.</p> <p>19 Q. What was your role in the investigation, to</p> <p>20 simply find the facts or find the facts and then figure</p> <p>21 out what action to take in response to your finding?</p> <p>22 A. To find the facts and then recommend specific</p> <p>23 actions.</p> <p>24 Q. How long did it take you to find the facts?</p>	16	<p>1 Q. So when did you determine your version of what</p> <p>2 happened?</p> <p>3 A. Some time during those months.</p> <p>4 Q. During which months, the months between June</p> <p>5 and August or the months between August and December?</p> <p>6 A. The months between, I guess --</p> <p>7 Q. August and December. I'm sorry.</p> <p>8 A. Yes, August and December.</p> <p>9 Q. Why did it take you four months to figure out</p> <p>10 your version of the June 2004 incident?</p> <p>11 A. I believe I answered that already, that I had</p> <p>12 work and I wasn't really sure how to resolve it.</p> <p>13 Q. How did you develop your version of what</p> <p>14 occurred on June 2004?</p> <p>15 A. I basically just read over the material once</p> <p>16 again and decided that there were no -- that more</p> <p>17 interviews were not going to probably elicit any more</p> <p>18 information, and then I reviewed policies and if any</p> <p>19 infraction of policy had been done. And then I</p> <p>20 recommended to the department head what should be done</p> <p>21 or what I thought should be done.</p> <p>22 Q. In completing the process you just described,</p> <p>23 did you consult with anyone else?</p> <p>24 A. I believe I probably talked with our attorney.</p>
15	<p>1 A. I don't believe I recall exactly when the</p> <p>2 interviews were completed, but I believe the last</p> <p>3 interviews were some time during the summer, maybe</p> <p>4 August.</p> <p>5 Q. August of 2004?</p> <p>6 A. Yes.</p> <p>7 Q. At the conclusion of August 2004, did you</p> <p>8 believe that you knew the facts related to the</p> <p>9 June 2004 incident?</p> <p>10 A. I knew what the people I interviewed had told</p> <p>11 me.</p> <p>12 Q. And at some point did you conclude or develop</p> <p>13 your own narrative of what had occurred?</p> <p>14 A. I'm not sure if I would put it that way.</p> <p>15 Q. Well, how would you put it?</p> <p>16 A. What is the question you're actually asking</p> <p>17 me?</p> <p>18 Q. You testified that by the end of August you</p> <p>19 had learned from whoever you interviewed what their</p> <p>20 version of the event was, and my question is, did you</p> <p>21 determine a version that you were going to say is what</p> <p>22 happened and then decide the resolution from that</p> <p>23 point?</p> <p>24 A. Yes.</p>	17	<p>1 MR. MILL: Yes. And she's instructed not</p> <p>2 to answer any questions about discussions she had with</p> <p>3 the law department.</p> <p>4 BY MR. VANCE:</p> <p>5 Q. When you say "your attorney," do you mean</p> <p>6 Mr. Mili?</p> <p>7 A. Yes.</p> <p>8 Q. Did you discuss this or your development of a</p> <p>9 narrative with anyone else?</p> <p>10 A. I don't think so.</p> <p>11 Q. Why did you conclude that Mr. Brown's actions</p> <p>12 did not constitute sexual harassment?</p> <p>13 A. I actually did not conclude that.</p> <p>14 Q. What do you think you concluded?</p> <p>15 A. I concluded that there was some sexual</p> <p>16 innuendo in what he said, he admitted to, but that I</p> <p>17 couldn't substantiate through his interview all of the</p> <p>18 facts or the information that Officer Lynch had given</p> <p>19 me.</p> <p>20 Q. So is it your testimony that when you</p> <p>21 concluded that there was sexual innuendo in what</p> <p>22 Mr. Brown had said that you were concluding that he had</p> <p>23 sexually harassed Officer Lynch?</p> <p>24 A. I don't believe that's the language that I</p>

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<p style="text-align: right;">18</p> <p>1 used.</p> <p>2 Q. And that's my question. So why didn't you use</p> <p>3 that language?</p> <p>4 A. Because what I could verify from his</p> <p>5 interview, what he was admitting to, I don't think,</p> <p>6 rose to the level of substantiating sexual harassment.</p> <p>7 Q. Why not?</p> <p>8 A. Because he did not admit to all the</p> <p>9 information that Officer Lynch gave me.</p> <p>10 Q. Is that the only reason why you concluded that</p> <p>11 his conduct did not rise to the level of sexual</p> <p>12 harassment, that he didn't admit everything that</p> <p>13 Officer Lynch said that he did?</p> <p>14 A. They were the only two witnesses I had, yes.</p> <p>15 Q. Is there any other reason why you concluded</p> <p>16 that his actions did not rise to the level of sexual</p> <p>17 harassment?</p> <p>18 A. I didn't have the evidence to substantiate</p> <p>19 that.</p> <p>20 Q. Meaning what, no corroborating witness?</p> <p>21 A. That's correct.</p> <p>22 Q. Well, did you understand that the incident</p> <p>23 took place when just the two of them were present?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">20</p> <p>1 A. I don't know if I went to that extent, but I</p> <p>2 certainly thought that having Mike Brown be Gene</p> <p>3 Brown's supervisor would affect or might affect what he</p> <p>4 told me, yes.</p> <p>5 Q. Is there any other fact or factor that you</p> <p>6 believe might have affected what Gene Brown told you</p> <p>7 about what he observed of the interaction between</p> <p>8 Michael Brown and Officer Lynch?</p> <p>9 A. I don't know of any other factor.</p> <p>10 Q. What did you recommend with regard to</p> <p>11 discipline, if any, for Michael Brown as a result of</p> <p>12 the June 2004 incident?</p> <p>13 A. As I recall, I advised the department head to</p> <p>14 provide him with a written discipline regarding</p> <p>15 violation of policy and to attend the next</p> <p>16 harassment-free work environment training. To reread</p> <p>17 the code of ethics and the associated -- there's a code</p> <p>18 of ethics policy and then the associated code.</p> <p>19 And basically to, we formalized the</p> <p>20 piece that Mr. Brown was not to contact Officer Lynch</p> <p>21 directly in any way, and if for some reason he needed</p> <p>22 to communicate with Officer Lynch, he had to use the</p> <p>23 chain of command and/or have somebody present.</p> <p>24 Q. Who was the department head that you made this</p>
<p style="text-align: right;">19</p> <p>1 Q. So what other corroborating witness did you</p> <p>2 expect to find?</p> <p>3 A. Well, there was a Mr. Brown, or Gene Brown</p> <p>4 that Officer Lynch mentioned came into the room and</p> <p>5 witnessed some of the discussion. Mr. Gene Brown did</p> <p>6 not corroborate the information that Officer Lynch gave</p> <p>7 me.</p> <p>8 Q. And did you investigate the relationship</p> <p>9 between Mr. Gene Brown and Michael Brown?</p> <p>10 A. Only in that Mike Brown was Gene Brown's</p> <p>11 supervisor.</p> <p>12 Q. Did that fact have any bearing on whether you</p> <p>13 concluded that Mr. Gene Brown was being truthful in his</p> <p>14 testimony?</p> <p>15 A. I considered it, yeah, I think it was a</p> <p>16 factor.</p> <p>17 Q. And how was it a factor in your decision?</p> <p>18 A. There was not a factor in my decision. There</p> <p>19 was a factor, I believe it was a factor in what Gene</p> <p>20 Brown may have told me.</p> <p>21 Q. Did you believe that Gene Brown may have been</p> <p>22 less than truthful about what he observed between his</p> <p>23 boss, Michael Brown, and Officer Lynch because Michael</p> <p>24 Brown was his boss?</p>	<p style="text-align: right;">21</p> <p>1 recommendation to?</p> <p>2 A. Romain Alexander.</p> <p>3 Q. And he's the head of what department or he was</p> <p>4 the head of what department at that time?</p> <p>5 A. Parks and recreation.</p> <p>6 Q. Prior to investigating Officer Lynch's</p> <p>7 complaint against Michael Brown, how many sexual</p> <p>8 harassment complaints had you investigated?</p> <p>9 A. This would be a wild guess, but 15.</p> <p>10 Q. 15 sexual harassment complaints since you were</p> <p>11 appointed director of personnel?</p> <p>12 A. No. That would be including my previous</p> <p>13 employer.</p> <p>14 Q. Let's talk about the City of Wilmington first.</p> <p>15 How many sexual harassment complaints did you</p> <p>16 investigate between the time you were appointed the</p> <p>17 director of personnel and when you investigated Officer</p> <p>18 Lynch's complaint?</p> <p>19 A. I would say half of that, seven, eight.</p> <p>20 Q. Seven or eight?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Did you receive any training after you became</p> <p>23 the director of personnel on how to investigate</p> <p>24 complaints?</p>

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22	<p>1 A. No.</p> <p>2 Q. Prior to working for the City of Wilmington,</p> <p>3 you investigated sexual harassment complaints?</p> <p>4 A. Uh-huh, yes.</p> <p>5 Q. In what capacity?</p> <p>6 A. I was the director of HR for a hospital.</p> <p>7 Q. What hospital?</p> <p>8 A. Meadowwood Hospital.</p> <p>9 Q. Where is that?</p> <p>10 A. It's in New Castle.</p> <p>11 Q. New Castle, Delaware?</p> <p>12 A. Yes.</p> <p>13 Q. And you investigated seven or eight sexual</p> <p>14 harassment complaints there?</p> <p>15 A. Yes.</p> <p>16 Q. Did you receive any training on how to</p> <p>17 investigate sexual harassment complaints from that</p> <p>18 employer?</p> <p>19 A. Actually, I believe I did go to training while</p> <p>20 I was there.</p> <p>21 Q. When did you go to that training?</p> <p>22 A. I don't recall. I was there for nine years.</p> <p>23 Q. From --</p> <p>24 A. '89 to '98.</p>	24	<p>1 A. No.</p> <p>2 Q. If you had concluded that Michael Brown had</p> <p>3 sexually harassed Officer Lynch, would the discipline</p> <p>4 you recommended have been any different?</p> <p>5 A. Yes.</p> <p>6 Q. What would you have recommended if you had</p> <p>7 concluded that he had sexually harassed Officer Lynch?</p> <p>8 A. I'm not sure what I would have done, but it</p> <p>9 would have been more severe.</p> <p>10 Q. Such as what? What options were available to</p> <p>11 you?</p> <p>12 A. Well, he could have been terminated as far as</p> <p>13 discipline is concerned.</p> <p>14 Q. What would have caused you to make such a</p> <p>15 recommendation?</p> <p>16 A. I don't know that.</p> <p>17 Q. But you would have recommended more than a</p> <p>18 letter to his file and attending training, is that what</p> <p>19 your testimony is?</p> <p>20 A. Yes.</p> <p>21 Q. Have you ever recommended that an alleged</p> <p>22 harasser be terminated since you have been working for</p> <p>23 the City of Wilmington?</p> <p>24 A. I don't recall.</p>
23	<p>1 Q. Do you have any law enforcement background of</p> <p>2 any kind?</p> <p>3 A. No.</p> <p>4 Q. Do you have any other investigative background</p> <p>5 of any kind?</p> <p>6 A. No.</p> <p>7 Q. In the seven to eight other sexual harassment</p> <p>8 complaints that you investigated since being appointed</p> <p>9 director of personnel for the City of Wilmington, were</p> <p>10 these incidents where the only witnesses were the</p> <p>11 complaining witness and the alleged harasser?</p> <p>12 A. I don't recall the details of those.</p> <p>13 Q. In your experience investigating sexual</p> <p>14 harassment complaints, would you say that in most cases</p> <p>15 the event that the complaining witness contends</p> <p>16 constitutes sexual harassment occurred when only the</p> <p>17 complaining witness and the alleged harasser were</p> <p>18 present so there were no other witnesses?</p> <p>19 A. Yes.</p> <p>20 Q. And in those circumstances, have you found</p> <p>21 sexual harassment in any of these other prior seven to</p> <p>22 eight complaints?</p> <p>23 A. I don't recall the details of those.</p> <p>24 Q. At all?</p>	25	<p>1 Q. Did you come up with your recommendation on</p> <p>2 your own or did you discuss that with counsel before</p> <p>3 you came up with that recommendation with respect to</p> <p>4 Officer Lynch's June 2004 complaint?</p> <p>5 A. I believe I may have discussed it with</p> <p>6 counsel.</p> <p>7 Q. Did the department of parks and recreation's</p> <p>8 head agree with your recommendation?</p> <p>9 A. Yes.</p> <p>10 Q. You're aware that there was a separate</p> <p>11 incident in November of 2004 between Officer Lynch and</p> <p>12 Mr. Brown?</p> <p>13 A. Yes.</p> <p>14 Q. Did you investigate that?</p> <p>15 A. Yes.</p> <p>16 Q. How were you made aware of that particular</p> <p>17 complaint?</p> <p>18 A. I'm not sure if it came from Officer Lynch or</p> <p>19 if it came from her supervisor, a Sergeant Donahue.</p> <p>20 Q. And why did you investigate that complaint as</p> <p>21 opposed to Sam Pratcher?</p> <p>22 A. I had done the first investigation. I thought</p> <p>23 I would follow through on the second since I was</p> <p>24 involved with the first.</p>

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26	<p>1 Q. You weren't finished the first yet; is that</p> <p>2 right?</p> <p>3 A. I think they crossed paths.</p> <p>4 Q. What does that mean?</p> <p>5 A. I believe that particular incident occurred at</p> <p>6 the end of November.</p> <p>7 Q. Okay.</p> <p>8 A. And at that point, I was finalizing my</p> <p>9 documentation on the first one.</p> <p>10 Q. So at that point, you had not yet recommended</p> <p>11 that Mr. Brown stay away from Officer Lynch?</p> <p>12 A. Oh, no, that was recommended when she first</p> <p>13 complained.</p> <p>14 Q. That he stay away from her?</p> <p>15 A. Oh, yes.</p> <p>16 Q. Who recommended that?</p> <p>17 A. I recommended that.</p> <p>18 Q. To who?</p> <p>19 A. To him and to -- well, I let the chief, the</p> <p>20 police chief know and let Romain know, the department</p> <p>21 head.</p> <p>22 Q. How did you recommend that to Mr. Brown? Did</p> <p>23 you write him a memo? Did you call him on the phone?</p> <p>24 Did you pass in the hallway? How did you do it?</p>	28	<p>1 Q. Verbal?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Yes?</p> <p>4 A. Yes.</p> <p>5 Q. You didn't put that in writing either;</p> <p>6 correct?</p> <p>7 A. No.</p> <p>8 Q. So when did you begin investigating the</p> <p>9 November 2004 incident?</p> <p>10 A. Within a few days of getting it, I suppose.</p> <p>11 Q. And what did you conclude after that</p> <p>12 investigation?</p> <p>13 A. I believe that there were other witnesses who</p> <p>14 basically described the behavior of Mr. Brown as</p> <p>15 intimidating and belittling of the officer.</p> <p>16 Q. Do you recall who you interviewed in</p> <p>17 connection with that incident in November of 2004?</p> <p>18 A. Officer Lynch, Mike Brown. There was Marsha</p> <p>19 Starks from the Mayor's Office. Bud Freel, another</p> <p>20 council member. Counsel Member Shabazz. That's all I</p> <p>21 can recall right now.</p> <p>22 Oh, I'm sorry, and also the other</p> <p>23 officer who was present. I think the name was Groak.</p> <p>24 Q. Had Mr. Brown been involved in any other</p>
27	<p>1 A. I believe -- well, it was done verbally and</p> <p>2 then it was also reiterated when I did the interview</p> <p>3 with him.</p> <p>4 Q. Did you ever send him a formal memo telling</p> <p>5 him to stay away from Officer Lynch and laying out the</p> <p>6 protocol he should follow if he had to communicate with</p> <p>7 her prior to November of 2004?</p> <p>8 A. I'm not sure.</p> <p>9 Q. If you had, would that have been part of your</p> <p>10 investigative file?</p> <p>11 A. Possibly, yeah.</p> <p>12 Q. Why would it not have been part of your file</p> <p>13 if you had put that in memo form?</p> <p>14 A. It probably would.</p> <p>15 Q. How did you communicate to the head of the</p> <p>16 parks and recreation department that Mr. Brown was to</p> <p>17 follow a particular protocol in communicating with</p> <p>18 Officer Lynch?</p> <p>19 A. I believe that was verbal also.</p> <p>20 Q. You never put that in writing?</p> <p>21 A. No.</p> <p>22 Q. And how did you communicate this protocol to</p> <p>23 the chief of police, I believe you said?</p> <p>24 A. The same way.</p>	29	<p>1 incidents that you investigated between the June 2004</p> <p>2 incident and the November 2004 incident?</p> <p>3 A. No.</p> <p>4 Q. What recommendation did you make with respect</p> <p>5 to the November 2004 incident?</p> <p>6 A. I don't recall the recommendations at this</p> <p>7 point in time.</p> <p>8 Q. Did you make the recommendations to the head</p> <p>9 of the parks and recreation department?</p> <p>10 A. No. I believe at that time, by the time that</p> <p>11 investigation concluded, it was January or February,</p> <p>12 and he had moved from that position to City Council.</p> <p>13 So they would have gone to the City Council president.</p> <p>14 Q. Why?</p> <p>15 A. That was his immediate supervisor.</p> <p>16 Q. That was Mr. Brown's immediate supervisor?</p> <p>17 A. Yes.</p> <p>18 Q. His department head is the president of City</p> <p>19 Council?</p> <p>20 A. Yes.</p> <p>21 Q. Was Mr. Brown still on the city payroll in</p> <p>22 January, or whenever you concluded your investigation</p> <p>23 of the November 2004 incident?</p> <p>24 A. Yes.</p>


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30	<p>1 Q. During the investigation of the November 2004</p> <p>2 incident, did you determine why Mr. Brown was at that</p> <p>3 meeting in the first place?</p> <p>4 A. No.</p> <p>5 Q. Was that an issue in any respect for you in</p> <p>6 the investigation?</p> <p>7 A. No.</p> <p>8 Q. Did it matter to you in your investigation of</p> <p>9 the November 2004 incident whether Mr. Brown was at the</p> <p>10 meeting in November 2004 as a private citizen or as the</p> <p>11 executive director of the Hicks Center?</p> <p>12 A. No.</p> <p>13 Q. Why didn't that make a difference to you?</p> <p>14 A. I just investigated the behavior and whether</p> <p>15 it was intimidating and belittling.</p> <p>16 Q. Why would you assume that you had jurisdiction</p> <p>17 to investigate the behavior of a private citizen?</p> <p>18 A. I didn't assume that. I didn't think about</p> <p>19 that piece of it.</p> <p>20 Q. Do you think you have the jurisdiction to</p> <p>21 investigate the behavior of a private citizen?</p> <p>22 A. No.</p> <p>23 Q. Do you have jurisdiction to investigate the</p> <p>24 behavior of city employees?</p>	32	<p>1 Q. Why not?</p> <p>2 A. I was still investigating the same complaint</p> <p>3 from an employee.</p> <p>4 Q. Did Mr. Brown tell you that he could do</p> <p>5 whatever he wanted to at that meeting because he was a</p> <p>6 private citizen, he wasn't appearing as a city</p> <p>7 employee?</p> <p>8 A. I don't recall him making that comment.</p> <p>9 Q. When you made your recommendation to</p> <p>10 Mr. Blunt, did Mr. Blunt or anyone else representing</p> <p>11 City Council tell you that your recommendations were</p> <p>12 irrelevant because at the time Mr. Brown was acting as</p> <p>13 a private citizen?</p> <p>14 A. I believe there was a communication to that</p> <p>15 effect.</p> <p>16 Q. From --</p> <p>17 A. No, not from a private citizen. Is that what</p> <p>18 you asked?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. What communication are you referring to?</p> <p>22 A. That he, that the incident occurred while he</p> <p>23 was not a City Council member.</p> <p>24 Q. And therefore what?</p>
31	<p>1 A. I have jurisdiction to investigate a complaint</p> <p>2 from a city employee, and that's what I did.</p> <p>3 Q. Do you believe you have jurisdiction at that</p> <p>4 time to investigate the conduct of a private citizen</p> <p>5 who may have been involved in a complaint filed by a</p> <p>6 city employee?</p> <p>7 A. I don't know.</p> <p>8 Q. Did anyone ever communicate to you that they</p> <p>9 believed that Mr. Brown could do whatever he wanted to</p> <p>10 do or could have done whatever he wanted at that</p> <p>11 meeting because he was appearing in his capacity as a</p> <p>12 private citizen?</p> <p>13 A. No.</p> <p>14 Q. Did you interview Mr. Brown in connection with</p> <p>15 your investigation of the November 2004 incident?</p> <p>16 A. Yes.</p> <p>17 Q. Did he ever tell you that he was appearing at</p> <p>18 that meeting in November 2004 as a private citizen and</p> <p>19 not as a city employee?</p> <p>20 A. Yes.</p> <p>21 Q. He did tell you that?</p> <p>22 A. Yes.</p> <p>23 Q. And how did you respond to that?</p> <p>24 A. I didn't respond.</p>	33	<p>1 A. That's all he basically said.</p> <p>2 Q. You don't remember what the recommendation was</p> <p>3 that you made with respect to the November 2004</p> <p>4 incident?</p> <p>5 A. I'm not sure I made recommendations.</p> <p>6 Q. Go ahead.</p> <p>7 A. I'm not sure I made recommendations on the</p> <p>8 second incident.</p> <p>9 Q. But in that circumstance, who, in your view,</p> <p>10 would have been responsible for disciplining Mr. Brown</p> <p>11 for conduct that occurred before he joined City</p> <p>12 Council?</p> <p>13 A. I'm not sure.</p> <p>14 Q. Or did it make any difference because he's</p> <p>15 still a city employee; correct?</p> <p>16 A. That's correct.</p> <p>17 Q. So it doesn't matter whether he's disciplined</p> <p>18 by the department head in the department in which he</p> <p>19 was working at the time of the incident or the</p> <p>20 department head where he was working at the time you</p> <p>21 came to your conclusion; is that correct?</p> <p>22 A. That's correct, yes.</p> <p>23 Q. Has Mr. Brown been involved in any subsequent</p> <p>24 sexual harassment complaints?</p>

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34	<p>1 A. Not that I know of, no.</p> <p>2 Q. Does the city have a policy about the</p> <p>3 activities of city employees when they are not working</p> <p>4 on their regularly scheduled hours?</p> <p>5 A. I don't believe so.</p> <p>6 Q. Is there any policy, to your knowledge, that</p> <p>7 the city has in place with respect to when a city</p> <p>8 employee is acting as a city employee as opposed to a</p> <p>9 private citizen?</p> <p>10 A. No, I don't think so.</p> <p>11 Q. As part of the training that your department</p> <p>12 administers to city employees, do you discuss that</p> <p>13 issue with city employees?</p> <p>14 A. No, I don't think so.</p> <p>15 Q. In any of your investigations, with respect to</p> <p>16 sexual harassment or otherwise, since you have been</p> <p>17 appointed director of personnel, have you had to</p> <p>18 address the issue of whether a city employee was acting</p> <p>19 in their capacity as a city employee or in their</p> <p>20 capacity as a private citizen?</p> <p>21 A. I don't recall any other, any instances like</p> <p>22 that.</p> <p>23 Q. Did you maintain a file of your investigation</p> <p>24 of the November 2004 incident?</p>	36	<p>1 complaint?</p> <p>2 A. Can you repeat the question?</p> <p>3 Q. Sure.</p> <p>4 Did the issue of whether the</p> <p>5 November 2004 incident occurred in a building that was</p> <p>6 or was not owned by the city have any impact on your</p> <p>7 investigation?</p> <p>8 A. I don't believe the issue ever came up.</p> <p>9 Q. But in your capacity as director of personnel,</p> <p>10 does that issue, in your view, have any impact on</p> <p>11 whether you have the jurisdiction to investigate a</p> <p>12 complaint of a city employee against either a private</p> <p>13 citizen or another city employee?</p> <p>14 A. No.</p> <p>15 Q. With respect to the November 2004 incident,</p> <p>16 your best recollection is that you did not --</p> <p>17 A. I don't recall.</p> <p>18 Q. -- make any recommendations?</p> <p>19 A. I don't recall whether I did or not.</p> <p>20 Q. And do you recall whether in the city</p> <p>21 harassment policy there is any standard of time set</p> <p>22 forth regarding how long it would take or should take</p> <p>23 to investigate complaints?</p> <p>24 A. I don't believe there is any time frame.</p>
35	<p>1 A. Yes.</p> <p>2 Q. You turned that over to Mr. Mili?</p> <p>3 A. No.</p> <p>4 Q. You haven't?</p> <p>5 A. No.</p> <p>6 Q. Do you still have that?</p> <p>7 A. Yes.</p> <p>8 Q. And do you have your file from the June 30,</p> <p>9 2004 incident?</p> <p>10 A. Yes.</p> <p>11 Q. Did you turn that over to Mr. Mili?</p> <p>12 A. No.</p> <p>13 Q. Do you still have that?</p> <p>14 A. Yes.</p> <p>15 MR. VANCE: Let me take a couple minutes</p> <p>16 and speak with Officer Lynch.</p> <p>17 (Recess.)</p> <p>18 BY MR. VANCE:</p> <p>19 Q. Just a couple more questions.</p> <p>20 In connection with your investigation of</p> <p>21 the November 2004 incident, did the issue of whether</p> <p>22 the incident took place in a building that was owned by</p> <p>23 the city or not have any bearing on what you believed</p> <p>24 was your ability to investigate Officer Lynch's</p>	37	<p>1 Q. There's nothing like 30 days we'll get back to</p> <p>2 the complaint or anything like that?</p> <p>3 A. No.</p> <p>4 MR. VANCE: I don't have any other</p> <p>5 questions for you. Thank you.</p> <p>6 MR. MILI: I don't have any either.</p> <p>7 You can read and sign or waive reading</p> <p>8 and signing.</p> <p>9 MR. VANCE: While we are on the record,</p> <p>10 are you objecting to turning over her file relating to</p> <p>11 the June 2004 incident and the November 2004 incident?</p> <p>12 MR. MILI: No.</p> <p>13 When was the discovery request filed?</p> <p>14 MR. VANCE: It hasn't been. If you want</p> <p>15 me to do that. If it comes up in a deposition, we</p> <p>16 still have a right to ask for it. I will send out a</p> <p>17 formal request if that's what you want.</p> <p>18 MR. MILI: I will give it to you. I</p> <p>19 thought we disclosed a stack of documents in the Rule</p> <p>20 26 disclosures. I am asking.</p> <p>21 MR. VANCE: I'm not sure. I thought so</p> <p>22 too.</p> <p>23 MR. MILI: Don't you have those</p> <p>24 documents?</p>

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<p style="text-align: right;">38</p> <p>1 MR. VANCE: This is her document.</p> <p>2 MR. MILI: Don't you have the documents</p> <p>3 that I sent in the Rule 26 disclosures?</p> <p>4 MR. VANCE: Did you send them to me or</p> <p>5 Kevin Fasic?</p> <p>6 MR. MILI: Kester Cross was the local</p> <p>7 counsel at the time.</p> <p>8 MR. VANCE: Then I don't have them.</p> <p>9 MR. MILI: He was the attorney of record,</p> <p>10 the Delaware attorney of record.</p> <p>11 MR. VANCE: Then I will get them from</p> <p>12 him.</p> <p>13 MR. MILI: I will get them again. I will</p> <p>14 get you whatever I turned over in the Rule 26</p> <p>15 disclosure. That's not a problem.</p> <p>16 MR. VANCE: I don't think I have them.</p> <p>17 But you are objecting to records relating to the other</p> <p>18 complaint?</p> <p>19 MR. MILI: I'm objecting to irrelevant</p> <p>20 records that aren't related to this case, absolutely.</p> <p>21 MR. VANCE: But that's your position,</p> <p>22 that they are not relevant?</p> <p>23 MR. MILI: Right.</p> <p>24 MR. VANCE: Okay. Thank you.</p>	<p style="text-align: right;">40</p> <p>1 State of Delaware)</p> <p>2)</p> <p>3 New Castle County)</p> <p>4</p> <p style="text-align: center;">CERTIFICATE OF REPORTER</p> <p>5 I, Terry B. Burke, RMR-CRR and Notary Public,</p> <p>6 do hereby certify that there came before me on</p> <p>7 Thursday, October 18, 2007, the deponent herein, MONICA</p> <p>8 GONZALEZ-GILLESPIE, who was duly sworn by me and</p> <p>9 thereafter examined by counsel for the respective</p> <p>10 parties; that the questions asked of said deponent and</p> <p>11 the answers given were taken down by me in Stenotype</p> <p>12 notes and thereafter transcribed by use of</p> <p>13 computer-aided transcription and computer printer under</p> <p>14 my direction.</p> <p>15 I further certify that the foregoing is a true</p> <p>16 and correct transcript of the testimony given at said</p> <p>17 examination of said witness.</p> <p>18 I further certify that reading and signing of</p> <p>19 the deposition were waived by the deponent and counsel.</p> <p>20</p> <p>21 I further certify that I am not counsel,</p> <p>22 attorney, or relative of either party, or otherwise</p> <p>23 interested in the outcome of this suit.</p> <p>24</p> <div style="text-align: center;">  <p><i>Terry B. Burke</i></p> <p>Terry B. Burke, RMR-CRR</p> <p>Certification No. 233-RPR</p> <p>(Expires January 31, 2008)</p> </div> <p>DATED:</p>
<p style="text-align: right;">39</p> <p>1 COURT REPORTER: Reading and signing?</p> <p>2 THE WITNESS: Should I just waive it?</p> <p>3 MR. MILI: You can waive it, that's fine.</p> <p>4 THE WITNESS: Okay.</p> <p>5 (Witness excused.)</p> <p>6 (The deposition concluded at 3:35 p.m.)</p> <p>7 INDEX</p> <p>8 DEPONENT: MONICA GONZALEZ-GILLESPIE PAGE</p> <p>9 Examination by Mr. Vance 2</p> <p>10 EXHIBITS</p> <p>11 (There were no exhibits marked for identification.)</p> <p>12</p> <p>13 CERTIFICATE OF REPORTER PAGE 40</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">A-233</p>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,

Plaintiff,

v.

CITY OF WILMINGTON,

Defendant.

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C.A. NO. 06-351 JJF

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Alex J. Mili, Jr, Esquire, hereby certify that on this 14th day of November, a copy of the Appendix to Defendant's Opening Brief in Support of its Motion for Summary Judgment Volume II was served with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following and that these documents are available for viewing and downloading from CM/ECF

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